

R 7

Ontario. Laws, statutes

Revised statutes

1960, v. 1



ONTARIO

REVISED STATUTES OF ONTARIO, 1960

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
REVISION ACT, 1959

IN FIVE VOLUMES

VOL. 1

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER

REVISED STATUTES OF ONTARIO, 1960

VOLUME 1

TABLE OF CONTENTS


CHAP.	PAGE
1 — Absconding Debtors Act.....	1
2 — Absentees Act.....	7
3 — Accidental Fires Act.....	9
4 — Accumulations Act.....	11
5 — Administration of Justice Expenses Act.....	13
6 — Agricultural Associations Act.....	29
7 — Agricultural Committees Act.....	35
8 — Agricultural Development Act.....	39
9 — Agricultural Development Finance Act.....	47
10 — Agricultural Representatives Act.....	49
11 — Agricultural Societies Act.....	51
12 — Air Pollution Control Act.....	67
13 — Aliens' Real Property Act.....	75
14 — Anatomy Act.....	77
15 — Andrew Mercer Reformatory Act.....	83
16 — Apportionment Act.....	87
17 — Apprenticeship Act.....	89
18 — Arbitrations Act.....	101
19 — Archaeological and Historic Sites Protection Act.....	111
20 — Architects Act.....	113
21 — Archives Act.....	125
22 — Artificial Insemination Act.....	129
23 — Assessment Act.....	131
24 — Assignment of Book Debts Act.....	285
25 — Assignments and Preferences Act.....	293
26 — Athletics Control Act.....	309
27 — Audit Act.....	315
28 — Bail Act.....	321
29 — Bailiffs Act.....	325
30 — Barristers Act.....	329
31 — Beach Protection Act.....	333
32 — Beds of Navigable Waters Act.....	337
33 — Bees Act.....	339
34 — Bills of Sale and Chattel Mortgages Act.....	347
35 — Blind Persons' Allowances Act.....	361
36 — Blind Workmen's Compensation Act.....	365
37 — Boilers and Pressure Vessels Act.....	367
38 — Boundaries Act.....	385
39 — Bread Sales Act.....	391
40 — Bridges Act.....	395
41 — Brucellosis Act.....	397
42 — Building Trades Protection Act.....	403
43 — Bulk Sales Act.....	407
44 — Business Records Protection Act.....	421

CHAP.	PAGE
45 — Cancer Act.....	423
46 — Cancer Remedies Act.....	429
47 — Cemeteries Act.....	433
48 — Certification of Titles Act.....	461
49 — Change of Name Act.....	469
50 — Charitable Gifts Act.....	479
51 — Charitable Institutions Act.....	483
52 — Charities Accounting Act.....	489
53 — Child Welfare Act.....	495
54 — Children's Boarding Homes Act.....	531
55 — Children's Maintenance Act.....	537
56 — Children's Mental Hospitals Act.....	539
57 — Chiropody Act.....	543
58 — Collection Agencies Act.....	547
59 — Commissioners for taking Affidavits Act.....	559
60 — Community Centres Act.....	563
61 — Conditional Sales Act.....	569
62 — Conservation Authorities Act.....	581
63 — Consolidated Cheese Factories Act.....	607
64 — Constitutional Questions Act.....	609
65 — Controverted Elections Act.....	611
66 — Conveyancing and Law of Property Act.....	635
67 — Co-operative Loans Act.....	655
68 — Cornea Transplant Act.....	661
69 — Coroners Act.....	663
70 — Corporation Securities Registration Act.....	677
71 — Corporations Act.....	683
72 — Corporations Information Act.....	849
73 — Corporations Tax Act.....	857
74 — Costs of Distress Act.....	1003
75 — County Court Judges' Criminal Courts Act.....	1005
76 — County Courts Act.....	1007
77 — County Judges Act.....	1021
78 — Creditors' Relief Act.....	1029
79 — Credit Unions Act.....	1051
80 — Crown Administration of Estates Act.....	1077
81 — Crown Agency Act.....	1081
82 — Crown Attorneys Act.....	1083
83 — Crown Timber Act.....	1091
84 — Crown Witnesses Act.....	1111
85 — Custody of Documents Act.....	1115
86 — Damage by Fumes Arbitration Act.....	1123
87 — Day Nurseries Act.....	1127
88 — Dead Animal Disposal Act.....	1129
89 — Debt Collectors Act.....	1133
90 — Dental Technicians Act.....	1135
91 — Dentistry Act.....	1139
92 — Department of Agriculture Act.....	1153
93 — Department of Economics Act.....	1155
94 — Department of Education Act.....	1157
95 — Department of Energy Resources Act.....	1175

TABLE OF CONTENTS

v

CHAP.	PAGE
96 — Department of Highways Act.....	1177
97 — Department of Labour Act.....	1179
98 — Department of Municipal Affairs Act.....	1185
99 — Department of Planning and Development Act.....	1215
100 — Department of Public Welfare Act.....	1217
101 — Department of Reform Institutions Act.....	1219
102 — Department of Transport Act.....	1221
103 — Department of Travel and Publicity Act.....	1223
104 — Dependants' Relief Act.....	1227
105 — Deserted Wives' and Children's Maintenance Act.....	1233
106 — Devolution of Estates Act.....	1243
107 — Disabled Persons' Allowances Act.....	1259
108 — Disorderly Houses Act.....	1263
109 — Ditches and Watercourses Act.....	1267
110 — Division Courts Act.....	1287
111 — Dog Tax and Cattle, Sheep and Poultry Protection Act.....	1357
112 — Dominion Courts Act.....	1367
113 — Dower Act.....	1369
114 — Drugless Practitioners Act.....	1381
115 — Edible Oil Products Act.....	1387
116 — Egress from Public Buildings Act.....	1391
117 — Elderly Persons' Housing Aid Act.....	1393
118 — Election Act.....	1395
119 — Elevators and Lifts Act.....	1485
120 — Embalmers and Funeral Directors Act.....	1495
121 — Employment Agencies Act.....	1507
122 — Energy Act.....	1511
123 — Escheats Act.....	1527
124 — Estreats Act.....	1529
125 — Evidence Act.....	1535
126 — Execution Act.....	1555
127 — Executive Council Act.....	1569
128 — Extra-Judicial Services Act.....	1571



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761115491334>

ALPHABETICAL TABLE OF STATUTES

CONTAINED IN VOLUMES 1 TO 4 OF

REVISED STATUTES OF ONTARIO, 1960

VOLUME 1

CHAP.

- 1 — Absconding Debtors Act
- 2 — Absentees Act
- 3 — Accidental Fires Act
- 4 — Accumulations Act
- 5 — Administration of Justice Expenses Act
- 6 — Agricultural Associations Act
- 7 — Agricultural Committees Act
- 8 — Agricultural Development Act
- 9 — Agricultural Development Finance Act
- 10 — Agricultural Representatives Act
- 11 — Agricultural Societies Act
- 12 — Air Pollution Control Act
- 13 — Aliens' Real Property Act
- 14 — Anatomy Act
- 15 — Andrew Mercer Reformatory Act
- 16 — Apportionment Act
- 17 — Apprenticeship Act
- 18 — Arbitrations Act
- 19 — Archaeological and Historic Sites Protection Act
- 20 — Architects Act
- 21 — Archives Act
- 22 — Artificial Insemination Act
- 23 — Assessment Act
- 24 — Assignment of Book Debts Act
- 25 — Assignments and Preferences Act
- 26 — Athletics Control Act
- 27 — Audit Act

- 28 — Bail Act
- 29 — Bailiffs Act
- 30 — Barristers Act
- 31 — Beach Protection Act
- 32 — Beds of Navigable Waters Act
- 33 — Bees Act
- 34 — Bills of Sale and Chattel Mortgages Act
- 35 — Blind Persons' Allowances Act
- 36 — Blind Workmen's Compensation Act
- 37 — Boilers and Pressure Vessels Act
- 38 — Boundaries Act
- 39 — Bread Sales Act
- 40 — Bridges Act
- 41 — Brucellosis Act

VOLUME 1—*Continued*

CHAP.

- 42 — Building Trades Protection Act
- 43 — Bulk Sales Act
- 44 — Business Records Protection Act

- 45 — Cancer Act
- 46 — Cancer Remedies Act
- 47 — Cemeteries Act
- 48 — Certification of Titles Act
- 49 — Change of Name Act
- 50 — Charitable Gifts Act
- 51 — Charitable Institutions Act
- 52 — Charities Accounting Act
- 53 — Child Welfare Act
- 54 — Children's Boarding Homes Act
- 55 — Children's Maintenance Act
- 56 — Children's Mental Hospitals Act
- 57 — Chiropody Act
- 58 — Collection Agencies Act
- 59 — Commissioners for taking Affidavits Act
- 60 — Community Centres Act
- 61 — Conditional Sales Act
- 62 — Conservation Authorities Act
- 63 — Consolidated Cheese Factories Act
- 64 — Constitutional Questions Act
- 65 — Controverted Elections Act
- 66 — Conveyancing and Law of Property Act
- 67 — Co-operative Loans Act
- 68 — Cornea Transplant Act
- 69 — Coroners Act
- 70 — Corporation Securities Registration Act
- 71 — Corporations Act
- 72 — Corporations Information Act
- 73 — Corporations Tax Act
- 74 — Costs of Distress Act
- 75 — County Court Judges' Criminal Courts Act
- 76 — County Courts Act
- 77 — County Judges Act
- 78 — Creditors' Relief Act
- 79 — Credit Unions Act
- 80 — Crown Administration of Estates Act
- 81 — Crown Agency Act
- 82 — Crown Attorneys Act
- 83 — Crown Timber Act
- 84 — Crown Witnesses Act
- 85 — Custody of Documents Act

- 86 — Damage by Fumes Arbitration Act
- 87 — Day Nurseries Act
- 88 — Dead Animal Disposal Act

VOLUME 1—*Continued*

CHAP.

- 89 — Debt Collectors Act
- 90 — Dental Technicians Act
- 91 — Dentistry Act
- 92 — Department of Agriculture Act
- 93 — Department of Economics Act
- 94 — Department of Education Act
- 95 — Department of Energy Resources Act
- 96 — Department of Highways Act
- 97 — Department of Labour Act
- 98 — Department of Municipal Affairs Act
- 99 — Department of Planning and Development Act
- 100 — Department of Public Welfare Act
- 101 — Department of Reform Institutions Act
- 102 — Department of Transport Act
- 103 — Department of Travel and Publicity Act
- 104 — Dependants' Relief Act
- 105 — Deserted Wives' and Children's Maintenance Act
- 106 — Devolution of Estates Act
- 107 — Disabled Persons' Allowances Act
- 108 — Disorderly Houses Act
- 109 — Ditches and Watercourses Act
- 110 — Division Courts Act
- 111 — Dog Tax and Cattle, Sheep and Poultry Protection Act
- 112 — Dominion Courts Act
- 113 — Dower Act
- 114 — Drugless Practitioners Act

- 115 — Edible Oil Products Act
- 116 — Egress from Public Buildings Act
- 117 — Elderly Persons' Housing Aid Act
- 118 — Election Act
- 119 — Elevators and Lifts Act
- 120 — Embalmers and Funeral Directors Act
- 121 — Employment Agencies Act
- 122 — Energy Act
- 123 — Escheats Act
- 124 — Estreats Act
- 125 — Evidence Act
- 126 — Execution Act
- 127 — Executive Council Act
- 128 — Extra-Judicial Services Act

VOLUME 2

CHAP.

- 129 — Factors Act
- 130 — Factory, Shop and Office Building Act
- 131 — Fair Accommodation Practices Act
- 132 — Fair Employment Practices Act
- 133 — Farm Loans Act
- 134 — Farm Loans Adjustment Act
- 135 — Farm Products Containers Act
- 136 — Farm Products Grades and Sales Act
- 137 — Farm Products Marketing Act
- 138 — Fatal Accidents Act
- 139 — Female Employees' Fair Remuneration Act
- 140 — Female Refuges Act
- 141 — Ferries Act
- 142 — Financial Administration Act
- 143 — Fines and Forfeitures Act
- 144 — Fire Accidents Act
- 145 — Fire Departments Act
- 146 — Fire Fighters' Exemption Act
- 147 — Fire Guardians Act
- 148 — Fire Marshals Act
- 149 — Fires Extinguishment Act
- 150 — Fish Inspection Act
- 151 — Floral Emblem Act
- 152 — Forest Fires Prevention Act
- 153 — Forestry Act
- 154 — Fraudulent Conveyances Act
- 155 — Fraudulent Debtors Arrest Act
- 156 — Fruit Packing Act
- 157 — Frustrated Contracts Act

- 158 — Game and Fisheries Act
- 159 — Gaming Act
- 160 — Gas and Oil Leases Act
- 161 — Gasoline Handling Act
- 162 — Gasoline Tax Act
- 163 — General Sessions Act
- 164 — General Welfare Assistance Act
- 165 — Gold Clauses Act
- 166 — Government Contracts Hours and Wages Act
- 167 — Grain Elevator Storage Act
- 168 — Guarantee Companies Securities Act

- 169 — Habeas Corpus Act
- 170 — Haliburton Act
- 171 — Highway Improvement Act
- 172 — Highway Traffic Act
- 173 — Homemakers and Nurses Services Act
- 174 — Homes for the Aged Act
- 175 — Horticultural Societies Act

VOLUME 2—*Continued*

CHAP.

- 176 — Hospital Services Commission Act
- 177 — Hospitals and Charitable Institutions Inquiries Act
- 178 — Hospitals Tax Act
- 179 — Hotel Fire Safety Act
- 180 — Hotel Registration of Guests Act
- 181 — Hours of Work and Vacations with Pay Act
- 182 — Housing Development Act

- 183 — Indian Welfare Services Act
- 184 — Industrial and Mining Lands Compensation Act
- 185 — Industrial Farms Act
- 186 — Industrial Standards Act
- 187 — Infants Act
- 188 — Injured Animals Act
- 189 — Innkeepers Act
- 190 — Insurance Act
- 191 — Interpretation Act
- 192 — Interprovincial Drainage Act
- 193 — Investigation of Titles Act
- 194 — Investment Contracts Act

- 195 — Jails Act
- 196 — Judges' Orders Enforcement Act
- 197 — Judicature Act
- 198 — Junior Farmer Establishment Act
- 199 — Jurors Act
- 200 — Justices of the Peace Act
- 201 — Juvenile and Family Courts Act

- 202 — Labour Relations Act
- 203 — Lakes and Rivers Improvement Act
- 204 — Land Titles Act
- 205 — Land Transfer Tax Act
- 206 — Landlord and Tenant Act
- 207 — Law Society Act
- 208 — Legislative Assembly Act
- 209 — Legislative Assembly Retirement Allowances Act
- 210 — Legitimation Act
- 211 — Libel and Slander Act
- 212 — Lieutenant Governor Act
- 213 — Lightning Rods Act
- 214 — Limitations Act
- 215 — Limited Partnerships Act
- 216 — Line Fences Act
- 217 — Liquor Control Act
- 218 — Liquor Licence Act
- 219 — Live Stock and Live Stock Products Act
- 220 — Live Stock Branding Act

VOLUME 2—*Continued*

CHAP.

- 221 — Live Stock Community Sales Act
 - 222 — Loan and Trust Corporations Act
 - 223 — Local Improvement Act
 - 224 — Logging Tax Act
 - 225 — Lord's Day (Ontario) Act
-

VOLUME 3

- 226 — Magistrates Act
- 227 — Marine Insurance Act
- 228 — Marriage Act
- 229 — Married Women's Property Act
- 230 — Master and Servant Act
- 231 — Maternity Boarding Houses Act
- 232 — Matrimonial Causes Act
- 233 — Mechanics' Lien Act
- 234 — Medical Act
- 235 — Mental Health Act
- 236 — Mental Hospitals Act
- 237 — Mental Incompetency Act
- 238 — Mercantile Law Amendment Act
- 239 — Milk Industry Act
- 240 — Minimum Wage Act
- 241 — Mining Act
- 242 — Mining Tax Act
- 243 — Minors' Protection Act
- 244 — Mortgage Brokers Registration Act
- 245 — Mortgages Act
- 246 — Mortmain and Charitable Uses Act
- 247 — Mothers' and Dependent Children's Allowances Act
- 248 — Motor Vehicle Fuel Tax Act
- 249 — Municipal Act
- 250 — Municipal Arbitrations Act
- 251 — Municipal Corporations Quieting Orders Act
- 252 — Municipal Drainage Act
- 253 — Municipal Drainage Aid Act
- 254 — Municipal Franchise Extension Act
- 255 — Municipal Franchises Act
- 256 — Municipal Health Services Act
- 257 — Municipal Subsidies Adjustment Act
- 258 — Municipal Tax Assistance Act
- 259 — Municipal Unconditional Grants Act
- 260 — Municipality of Metropolitan Toronto Act

- 261 — Negligence Act
- 262 — Niagara Parks Act
- 263 — Notaries Act
- 264 — Nurses Registration Act
- 265 — Nursing Act

VOLUME 3—*Continued*

CHAP.

- 266 — Official Notices Publication Act
- 267 — Old Age Assistance Act
- 268 — Oleomargarine Act
- 269 — One Day's Rest in Seven Act
- 270 — Ontario Anti-Discrimination Commission Act
- 271 — Ontario Energy Board Act
- 272 — Ontario Food Terminal Act
- 273 — Ontario Highway Transport Board Act
- 274 — Ontario Municipal Board Act
- 275 — Ontario Municipal Improvement Corporation Act
- 276 — Ontario Northland Transportation Commission Act
- 277 — Ontario Parks Integration Board Act
- 278 — Ontario School Trustees' Council Act
- 279 — Ontario-St. Lawrence Development Commission Act
- 280 — Ontario Telephone Development Corporation Act
- 281 — Ontario Water Resources Commission Act
- 282 — Operating Engineers Act
- 283 — Optometry Act

- 284 — Parents' Maintenance Act
- 285 — Parks Assistance Act
- 286 — Parole Act
- 287 — Partition Act
- 288 — Partnerships Act
- 289 — Partnerships Registration Act
- 290 — Pawnbrokers Act
- 291 — Penal and Reform Institutions Inspection Act
- 292 — Personation Act
- 293 — Pesticides Act
- 294 — Petty Trespass Act
- 295 — Pharmacy Act
- 296 — Planning Act
- 297 — Plant Diseases Act
- 298 — Police Act
- 299 — Pounds Act
- 300 — Power Commission Act
- 301 — Power Commission Insurance Act
- 302 — Power Control Act
- 303 — Powers of Attorney Act
- 304 — Prepaid Hospital and Medical Services Act
- 305 — Private Hospitals Act
- 306 — Private Investigators Act
- 307 — Private Sanitaria Act

VOLUME 4

CHAP.

- 308 — Probation Act
- 309 — Professional Engineers Act
- 310 — Property and Civil Rights Act
- 311 — Provincial Aid to Drainage Act
- 312 — Provincial Auctioneers Act
- 313 — Provincial Land Tax Act
- 314 — Provincial Parks Act
- 315 — Psychiatric Hospitals Act
- 316 — Psychologists Registration Act
- 317 — Public Accountancy Act
- 318 — Public Authorities Protection Act
- 319 — Public Commercial Vehicles Act
- 320 — Public Halls Act
- 321 — Public Health Act
- 322 — Public Hospitals Act
- 323 — Public Inquiries Act
- 324 — Public Lands Act
- 325 — Public Libraries Act
- 326 — Public Officers Act
- 327 — Public Officers' Fees Act
- 328 — Public and Other Works Wages Act
- 329 — Public Parks Act
- 330 — Public Schools Act
- 331 — Public Service Act
- 332 — Public Service Superannuation Act
- 333 — Public Service Works on Highways Act
- 334 — Public Trustee Act
- 335 — Public Utilities Act
- 336 — Public Utilities Corporations Act
- 337 — Public Vehicles Act
- 338 — Public Works Act
- 339 — Public Works Protection Act

- 340 — Quieting Titles Act

- 341 — Race Tracks Tax Act
- 342 — Racing Commission Act
- 343 — Railway Fire Charge Act
- 344 — Real Estate and Business Brokers Act
- 345 — Reciprocal Enforcement of Judgments Act
- 346 — Reciprocal Enforcement of Maintenance Orders Act
- 347 — Reformatories Act
- 348 — Registry Act
- 349 — Regulations Act
- 350 — Rehabilitation Services Act
- 351 — Religious Institutions Act
- 352 — Replevin Act
- 353 — Representation Act
- 354 — Rights of Labour Act

VOLUME 4—*Continued*

CHAP.

- 355 — Rural Housing Assistance Act
356 — Rural Hydro-Electric Distribution Act
357 — Rural Power District Loans Act
- 358 — Sale of Goods Act
359 — Sanatoria for Consumptives Act
360 — School Trust Conveyances Act
361 — Schools Administration Act
362 — Secondary Schools and Boards of Education Act
363 — Securities Act
364 — Security Transfer Tax Act
365 — Seduction Act
366 — Seed Grain Subsidy Act
367 — Seed Potatoes Act
368 — Separate Schools Act
369 — Settled Estates Act
370 — Settlers' Pulpwood Protection Act
371 — Sheriffs Act
372 — Short Forms of Conveyances Act
373 — Short Forms of Leases Act
374 — Short Forms of Mortgages Act
375 — Silicosis Act
376 — Snow Roads and Fences Act
377 — Soldiers' Aid Commission Act
378 — Solicitors Act
379 — Spruce Pulpwood Exportation Act
380 — Stallions Act
381 — Statute of Frauds
382 — Statute Labour Act
383 — Statutes Act
384 — Steam Threshing Engines Act
385 — Stock Yards Act
386 — Succession Duty Act
387 — Summary Convictions Act
388 — Surrogate Courts Act
389 — Surveyors Act
390 — Surveys Act
391 — Survivorship Act
- 392 — Teachers' Superannuation Act
393 — Teaching Profession Act
394 — Telephone Act
395 — Territorial Division Act
396 — Theatres Act
397 — Threshing Machines Act
398 — Ticket Speculation Act
399 — Tile Drainage Act
400 — Time Act
401 — Toll Bridges Act

VOLUME 4—*Continued*

CHAP.

- 402 — Tourist Establishments Act
- 403 — Trade Schools Regulation Act
- 404 — Training Schools Act
- 405 — Transportation of Fowl Act
- 406 — Trees Act
- 407 — Trench Excavators' Protection Act
- 408 — Trustee Act

- 409 — Unclaimed Articles Act
- 410 — Unconscionable Transactions Relief Act

- 411 — Vacant Land Cultivation Act
- 412 — Vaccination Act
- 413 — Variation of Trusts Act
- 414 — Vendors and Purchasers Act
- 415 — Venereal Diseases Prevention Act
- 416 — Veterinarians Act
- 417 — Vexatious Proceedings Act
- 418 — Vicious Dogs Act
- 419 — Vital Statistics Act
- 420 — Voters' Lists Act

- 421 — Wages Act
- 422 — Warble Fly Control Act
- 423 — Warehousemen's Lien Act
- 424 — Warehouse Receipts Act
- 425 — War Veterans Burial Act
- 426 — Water Powers Regulation Act
- 427 — Weed Control Act
- 428 — Welfare Units Act
- 429 — Wharfs and Harbours Act
- 430 — White Cane Act
- 431 — Wild Rice Harvesting Act
- 432 — Wilderness Areas Act
- 433 — Wills Act
- 434 — Wolf and Bear Bounty Act
- 435 — Woodmen's Employment Act
- 436 — Woodmen's Lien for Wages Act
- 437 — Workmen's Compensation Act
- 438 — Workmen's Compensation Insurance Act

CHAPTER 1

The Absconding Debtors Act

1. In this Act, "property" includes credits and effects.
R.S.O. 1950, c. 1, s. 1.

Interpre-
tation

2.—(1) Where a person resident in Ontario departs there-
from with intent to defraud his creditors or any of them, or to
avoid being arrested or served with process, being then pos-
sessed of any real or personal property therein not exempt
by law from seizure under execution, he shall be deemed an
absconding debtor, and such property may be seized and
taken by an order of attachment for the satisfying of his
debts.

Who to be
regarded as
absconding
debtors

(2) The order shall be made only in a pending action.
R.S.O. 1950, c. 1, s. 2.

When order
may be
made

3.—(1) Upon affidavit made by a plaintiff or his agent
that the defendant is indebted to the plaintiff in a sum exceed-
ing \$100, stating the cause of action, and that the deponent
has good reason to believe and does believe that such defend-
ant has departed from Ontario and has gone to some place,
stating it, to which he is believed to have fled, or that the
deponent is unable to obtain any information as to the place
to which he has gone, with intent to defraud his creditors or
any of them, or to avoid being arrested or served with pro-
cess, and was, at the time of his so departing, possessed to
his own use and benefit of real or personal property in On-
tario not exempt by law from seizure under execution, and
upon the further affidavit of two other persons that they
are well acquainted with the defendant and have good rea-
son to believe and do believe that he has departed from
Ontario with intent to defraud his creditors or any of them,
or to avoid being arrested or served with process, a judge of
the Supreme Court may make an order in the Supreme
Court for the attachment of the property of such defendant.

Affidavit
and order
of attach-
ment

(2) Where the sum claimed is within the jurisdiction of
the county court, a judge thereof may in like manner make
an order of attachment in that court. R.S.O. 1950, c. 1, s. 3.

County
court
jurisdiction

Service of
order

4. A copy of the order shall be served upon the defendant. R.S.O. 1950, c. 1, s. 4.

Term of
validity

5. The order shall remain in force for six months. R.S.O. 1950, c. 1, s. 5.

Certified
copies of
order

6. The plaintiff may at any time while the order is in force obtain from the proper officer one or more certified copies thereof, which may be delivered to any sheriff other than the sheriff to whom the original order was delivered, and he may thereunder attach the property of the defendant in his bailiwick. R.S.O. 1950, c. 1, s. 6.

Liability of
property to
attachment

7. All the property of an absconding debtor liable to seizure under execution may be attached in the same manner as it might be seized under execution, and the sheriff to whom the order of attachment is directed shall forthwith take into his charge all such property, according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the same, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid shall make a just and true inventory of all the personal property, evidence of title or debts, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and such freeholders, together with the order. R.S.O. 1950, c. 1, s. 7.

Sale of live
stock and
perishable
goods

8.—(1) Where horses, cattle, sheep or pigs, or perishable property, or such as from its nature cannot be safely kept or conveniently taken care of, are taken under an order of attachment, the sheriff who attaches them shall have them appraised, on oath, by two competent persons, and, if the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders, approved as sufficient by the sheriff, in double the appraised value of the property, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such property at public auction to the highest bidder, giving not less than six days notice of the sale, unless any of the property is of such a nature as not to allow of that delay, in which case the sheriff may sell it forthwith, and the sheriff shall hold the proceeds for the same purposes as he would hold property seized under the order of attachment.

Restoration

(2) If the plaintiff, after notice to him or to his solicitor of the seizure of any property mentioned in subsection 1,

does not deposit such bond, then, after four days next after the notice, the sheriff is relieved from all liability to the plaintiff in respect to the property so seized, and the sheriff shall forthwith restore it to the person from whose possession it was taken. R.S.O. 1950, c. 1, s. 8.

9.—(1) Where the sheriff finds any property, or the proceeds of any property that has been sold as perishable, belonging to the defendant in the custody of a constable or of a bailiff or clerk of a division court under a warrant of attachment issued, or finds money paid into court under a garnishment summons under *The Division Courts Act*, the sheriff shall demand and is entitled to receive the same from the constable, bailiff or clerk, who, on demand and notice of the order of attachment, shall forthwith deliver the same to the sheriff, under the penalty of forfeiting double the value thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property of the defendant, but the creditor who has sued out the warrant of attachment or taken the garnishment proceedings in the division court may proceed to judgment, and on obtaining judgment, and serving a certificate of the amount thereof, and of the costs, under the hand of the clerk and the seal of the division court, is entitled to share in the distribution, if any, by the sheriff under *The Creditors' Relief Act*. Proceedings if sheriff finds property in the hands of a bailiff or clerk of a division court R.S.O. 1960, c. 110

(2) The costs and disbursements of such constable or bailiff are a first charge upon such property and proceeds and shall be paid by the sheriff upon demand after being taxed by the clerk of the division court. Costs of bailiff or constable R.S.O. 1960, c. 78

10. The costs of the sheriff for seizing and taking charge of property under an order of attachment, including the sums paid to persons for assisting in taking an inventory and for appraising, shall be paid in the first instance by the plaintiff, and when paid shall be taxed to him as disbursements in the action. Sheriff's costs, how paid R.S.O. 1950, c. 1, s. 10.

11. Where the sheriff has made an inventory and appraisal on the first order of attachment, he shall not be required to make nor shall he be allowed for a new inventory and appraisal upon a subsequent order coming into his hands. Cost of inventory R.S.O. 1950, c. 1, s. 11.

12.—(1) Where the defendant or any person on his behalf executes and files in the office from which the order of attachment, or the first order if there are more than one, was issued, a bond to the sheriff with at least two sufficient sureties Restoration of goods to debtor on his giving security

approved by the proper officer in such office or by the local judge or master, binding the obligors jointly and severally in double the appraised value of the property attached, conditioned that the defendant (*naming him*) will whenever required by order of a judge of the court pay into court the appraised value of the property or so much thereof as will be sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property, or will produce and deliver to the sheriff the property attached, a judge of the court may direct that such property be restored to the debtor.

Proceedings
on default

(2) If within one month after the property has been attached such bond is not executed and filed, a judge of the court may direct the sheriff to sell any of the goods and chattels that have been attached, except chattels real, upon such terms as to the judge seem just. R.S.O. 1950, c. 1, s. 12.

Costs of
first
attachment

13. The costs of the first order of attachment and of the execution thereof have priority over all execution debts and other costs. R.S.O. 1950, c. 1, s. 13.

Liability of
persons
paying debts
to abscond-
ing debtor
after notice
of
attachment

14.—(1) Where notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property of, the defendant, and such person after such notice pays the debt or demand or delivers the property to the defendant or to any one for him, he shall be deemed to have done so fraudulently, and, if the other property seized by the sheriff is insufficient to satisfy the claims of all creditors who are or become entitled to be paid out of the same or the proceeds thereof, such person is liable to the sheriff for the amount of the debt or demand so paid or for the property so delivered or the value thereof.

Duty of
sheriff

(2) The sheriff is not bound to sue until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be other of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount of the debt or of the value of the property sued for, conditioned to indemnify him from all costs, loss and expense that he may incur in the prosecution of the action or to which he may become liable in consequence thereof.

Stay of
proceedings
taken by
absconding
debtor

(3) If, after the notice mentioned in subsection 1, a person indebted to the defendant, or having the custody or possession of any of his property, is sued for the debt, demand or property by the defendant, or by the person to whom he has assigned the debt, demand or property since the date of the

order of attachment, he may, on affidavit, apply to a judge of the court to stay proceedings in the action until it is known whether the other property seized by the sheriff is sufficient to satisfy the claims mentioned in subsection 1, and the judge may direct an issue to try any disputed question of fact or make such other order as seems just. R.S.O. 1950, c. 1, s. 14.

15. If the other property of the defendant proves insufficient to satisfy the executions against him and the claims certified under *The Creditors' Relief Act*, and there remain debts due to the defendant, the attempt to collect which would be less beneficial to his creditors than a sale thereof, the sheriff may, by leave of a judge of the court, sell such debts by public auction after such advertisement as the judge directs and, pending such advertisement, the sheriff shall keep a list of the debts to be sold open for inspection at his office, and shall give free access to all documents and vouchers explanatory of such debts; but every debt amounting to more than \$100 shall be sold separately, unless the judge otherwise directs. R.S.O. 1950, c. 1, s. 15.

Sale of debts
by sheriff
R.S.O. 1960,
c. 78

16.—(1) The person who purchases a debt from the sheriff may sue for it in his own name, and a bill of sale (Form 1) executed by the sheriff is admissible in evidence as *prima facie* proof of such purchase and of the sheriff's authority to sell, without proof of the handwriting of the sheriff, or of the execution or order, or of the sale.

Right of
purchaser
to sue

(2) In an action by the purchaser, the defendant may set up any defence that would have availed him against the absconding debtor at the date of the order of attachment.

What
defence
may be
set up

R.S.O. 1950, c. 1, s. 16.

17. Where the plaintiff desires to avail himself of *The Creditors' Relief Act*, he may, instead of proceeding with his action, obtain a certificate and, in that case, may add the costs incurred in the action to the amount of his claim, unless a judge of the court otherwise orders. R.S.O. 1950, c. 1, s. 17.

Option

18. Where an order of attachment has been made but no execution at the suit of a creditor against the property of the debtor is placed in the sheriff's hands for execution within three months thereafter or within such further time as a judge of the court directs, all the property of the absconding debtor or unappropriated money, the proceeds of any part of such property remaining in the sheriff's hands, together with all books of account, evidences of title, or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered

Sheriff's
duty and
end of his
responsi-
bility

to the absconding debtor or to his authorized agent, or to the person in whose custody the same were found, or, if taken or received under section 9, to the constable, bailiff or clerk from whom the same were taken or received, upon being repaid the amount, if any, that the sheriff may have paid under subsection 2 of section 9, and thereupon the responsibility of the sheriff in respect thereto determines, or, if a bond has been given under section 12, the bond shall be delivered up to be cancelled. R.S.O. 1950, c. 1, s. 18.

FORM 1

BILL OF SALE OF A DEBT

(Section 16)

In consideration of \$....., the receipt whereof I hereby acknowledge:

I, A. B., Sheriff of the County of....., under and by virtue of an order of attachment dated....., issued under *The Absconding Debtors Act* against the real and personal property of C. D., an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to E. F. all claim by the said C. D. against G. H., of (*describing the debtor*), with the evidences of debt and the securities thereto appertaining.

Witness my hand and seal of office, this.....day of....., 19...

A. B.,
Sheriff of the County of.....

R.S.O. 1950, c. 1, Form 1.

CHAPTER 2

The Absentees Act

1. An absentee within the meaning of this Act means a person who, having had his usual place of residence or domicile in Ontario, has disappeared, whose whereabouts is unknown and as to whom there is no knowledge as to whether he is alive or dead. R.S.O. 1950, c. 2, s. 1. Interpretation

2.—(1) The Supreme Court may by order declare a person to be an absentee if it is shown that due and satisfactory inquiry has been made, or may direct such further inquiry to be made and proceedings to be taken as the court deems expedient before making any order. Declaration by court

(2) The application for the order may be made by the Attorney General for Ontario, or by any one or more of the next of kin of the alleged absentee, by his or her wife or husband, creditor or other person. Application, who may make

(3) Any person aggrieved or affected by the order has the right to appeal therefrom. R.S.O. 1950, c. 2, s. 2. Appeal

3. Upon application at any time, the court, if satisfied that such person has ceased to be an absentee, may make an order so declaring and superseding, vacating and setting aside the order declaring the person an absentee for all purposes except as to acts or things done in respect of the estate of the absentee while such order was in force. R.S.O. 1950, c. 2, s. 3. Order declaring person no longer absentee

4. The court may make an order for the custody, due care and management of the property of an absentee, and a committee may be appointed for that purpose. R.S.O. 1950, c. 2, s. 4. Administration of estate

5. A trust company with or without one or more persons may be appointed such committee. R.S.O. 1950, c. 2, s. 5. Who may be appointed committee

6. Where a committee of the estate of an absentee has been appointed, the powers and duties of the court and committee are the same *mutatis mutandis* as the powers and duties of a court and of a committee of the estate of a mentally incompetent person under *The Mental Incompetency Act*. R.S.O. 1960, c. 237. Powers and duties of court and committee

Powers of
committee
to expend
money out
of estate

7. The committee, subject to the direction of the court, has authority to expend moneys out of the estate of an absentee for the purpose of endeavouring to trace the absentee and in endeavouring to ascertain whether he is alive or dead. R.S.O. 1950, c. 2, s. 7.

CHAPTER 3

The Accidental Fires Act

1. No action shall be brought against any person in whose house or building or on whose land any fire accidentally begins, nor shall any recompense be made by him for any damage suffered thereby; but no agreement between a landlord and tenant is defeated or made void by this Act. R.S.O. 1950, c. 3, s. 1.

No action for damages from accidental fire

CHAPTER 4

The Accumulations Act

1.—(1) No person shall, by any deed, surrender, will, ^{Limitation of period during which accumulation permitted} codicil, or otherwise howsoever, settle or dispose of any real or personal property so that the rents, issues, profits or produce thereof will be wholly or partially accumulated for any longer than one of the following terms:

1. For the life of the grantor.
2. For twenty-one years from the death of the grantor or testator.
3. For the period of minority of any person living, or *en ventre sa mere*, at the death of the grantor or testator.
4. For the period of minority of any person who, under the instrument directing the accumulation, would for the time being, if of full age, be entitled to the income, or rents and profits, directed to be accumulated.

(2) No accumulation for the purchase of land shall be ^{Accumulations for the purchase of land} directed for any longer period than that mentioned in sub-section 1.

(3) Where an accumulation is directed contrary to this Act, ^{Application of invalid accumulations} such direction is null and void, and the rents, issues, profits and produce of the property so directed to be accumulated shall, so long as they are directed to be accumulated contrary to this Act, go to and be received by such person as would have been entitled thereto if such accumulation had not been so directed. R.S.O. 1950, c. 4, s. 1.

2. Nothing in this Act extends to any provision for payment ^{Saving as to debts or portions for children} of debts of a grantor, settlor, devisor or other person, or to any provision for raising portions for a child of a grantor, settlor or devisor, or for a child of a person taking an interest under any such conveyance, settlement or devise, or to any direction touching the produce of timber or wood upon any lands or tenements, but all such provisions and directions may be made and given as if this Act had not been passed. R.S.O. 1950, c. 4, s. 2.

CHAPTER 5

The Administration of Justice Expenses Act

PART I

1. Where not otherwise provided by law, the Lieutenant Governor in Council may make rules fixing and determining the fees to be allowed to counsel, solicitors and other officers and persons for or in respect of any criminal prosecutions, matters, and proceedings in the Supreme Court or court of general sessions of the peace, or under any commission or special commission, or relating to the Queen's revenue, and shall therein distinguish the fees to be paid by private individuals. R.S.O. 1950, c. 5, s. 1.

Who may
make rules
as to fees

2.—(1) Subject to such rules, the table of fees in Schedules A and B are the fees to be taken by sheriffs, Crown attorneys, clerks of the peace, clerks of courts, local registrars of the Supreme Court, constables, examiners and analysts, respectively, for the services therein mentioned.

Fees in
criminal
matters, to
sheriffs,
Crown
attorneys,
clerks of
the peace,
etc.

(2) The Lieutenant Governor in Council may amend or repeal any of the items and forms in the Schedules or add thereto. R.S.O. 1950, c. 5, s. 2, *amended*.

Amend-
ments, etc.,
to Schedules

3. The distance travelled from the court house to the place where a paper is served or other service performed shall be ascertained by the statutory declaration or affidavit of the sheriff or his bailiff or other officer who actually makes or performs the service. R.S.O. 1950, c. 5, s. 3 (2).

Mileage

4. A jail surgeon is entitled to receive a fee of \$2 for the examination of each prisoner eligible for removal or sentenced to the penitentiary, a reformatory or an industrial farm, and for making the certificate, but, where a jail surgeon makes more than 1,000 examinations and certificates in any year, the fee for each such examination and certificate in excess of 1,000 is \$1. 1952, c. 1, s. 1.

Fee of jail
surgeon

5. All percentages, fees or allowances on levying fines and recognizances may be levied over and above the amount of the fines and recognizances. R.S.O. 1950, c. 5, s. 6.

Levying
fees

Fees for services not mentioned herein

6. Nothing in this Act deprives any of the officers mentioned in section 2 of fees allowed by any Act of the Parliament of Canada or of the Legislature for other services not provided for in this Act. R.S.O. 1950, c. 5, s. 7.

Penalty for taking higher fees

7. If any such officer wilfully demands or receives any other or greater fee, percentage or allowance than the fee, percentage or allowance to which he is entitled under this Act for any of the services performed by him, unless allowed by an Act of the Parliament of Canada or of the Legislature, he is guilty of an offence and on summary conviction is liable to a fine of \$60. R.S.O. 1950, c. 5, s. 8.

Allowance to constables and others for special services

8.—(1) Where, in the opinion of the Crown attorney, special services, not covered by the ordinary tariff, are necessary for the detection of crime or the capture of a person who is believed to have committed a crime of a serious character, he may authorize and direct any constable or other person to perform such service, and shall certify upon the account to be rendered by the constable or other person what he deems a reasonable allowance to be paid to the person employed, and the amount so certified shall be paid to such person by the county.

Advances to constables, etc., for expenses in performing special services

(2) The Crown attorney may direct the treasurer of the county to advance to the constable or other person such sum as he names for the purpose of paying the reasonable and necessary expenses incurred or to be incurred by the constable or other person in the performance of such special services, and the treasurer of the county shall pay such sum upon the written order of the Crown attorney and shall deduct the amount thereof from the subsequently certified account of the constable or other person employed.

Application

(3) This section does not apply to services in a city or separated town for which there is a staff of salaried police officers, and no allowance shall in any other case be made under subsection 1 to any salaried constable or other officer unless he is entitled to receive for his own use, in addition to his salary, the fees earned by him.

Idem

(4) This section applies *mutatis mutandis* to districts without county organization, and the treasurer of the district shall pay or advance the amount certified or directed by the Crown attorney in the same manner as the treasurer of the county is required to do by subsections 1 and 2. R.S.O. 1950, c. 5, s. 9.

9. Where a sittings of the Supreme Court, county or district court or court of general sessions of the peace is continued after 8 o'clock in the evening, an additional allowance, not exceeding one day's pay, may, upon the certificate of the presiding judge, be made to any officer in attendance upon such court who is paid for services by a *per diem* allowance. R.S.O. 1950, c. 5, s. 10 (2). Allowance in case of prolonged sittings

10. Where services are rendered by a person in connection with a prosecution and the services are rendered by the direction or with the approval of the Attorney General, the person rendering the services is entitled to be paid such sum as the Attorney General directs out of the moneys appropriated by the Legislature for the administration of justice. 1959, c. 1, s. 1, *part*. Payment for special services

11. Where the Attorney General is of the opinion that it is necessary in order to procure the attendance as a witness for the Crown at a criminal trial of a person resident out of Ontario and that such person should be compensated for his loss of time and expenses in attending the trial, the Attorney General may direct that such sum as he deems reasonable be paid to such person out of the moneys appropriated by the Legislature for the administration of justice. 1959, c. 1, s. 1, *part*. Remuneration of witness coming to Ontario

12. Where the Attorney General is of the opinion that it is advisable to bring a person charged with an indictable offence from a place out of or in Ontario to the place of trial in Ontario, he may direct that such be done and in every such case the expenses incurred in carrying out the direction shall be paid out of the moneys appropriated by the Legislature for the administration of justice. 1959, c. 1, s. 1, *part*. Payment of expenses of bringing accused to trial

13. The Crown attorney may employ an interpreter in any criminal cause or investigation or at a coroner's inquest, and the interpreter shall be paid such amount as the Crown attorney certifies to be reasonable, and it shall be allowed to the interpreter in the account in respect of the administration of justice and is payable by the county. R.S.O. 1950, c. 5, s. 13. Employment and payment of interpreter

14. Every account rendered shall be verified by the oath of the claimant that the amount is correct in every particular, and, where mileage is charged, the places from and to which the mileage is reckoned, and the number of miles shall be mentioned, and in no case shall more than the actual number Form of account

of miles travelled be allowed, nor, where the service is by a sheriff's officer, shall a greater number of miles be allowed than the distance from the court house to the place of service, and the separate items in such account shall be numbered consecutively. R.S.O. 1950, c. 5, s. 14.

Forms to be
provided by
county

15. Forms of account (Form 1) and such other forms as are prescribed by the Lieutenant Governor in Council shall be provided by the county and shall on application be furnished by the county treasurer to the officers requiring them. R.S.O. 1950, c. 5, s. 15.

Constable's
accounts to
be certified

16. Every account of a constable shall be certified by the justice, Crown attorney or coroner under whose direction the constable acted. R.S.O. 1950, c. 5, s. 16.

PART II

Fees in
civil matters
payable by
parties

17.—(1) All fees payable under Part I to the officers therein mentioned for services in proceedings in the nature of a civil remedy for persons at whose instance and for whose private benefit the same are performed shall be paid by such persons. R.S.O. 1950, c. 5, s. 17 (1).

Fees payable
in first
instance by
county

(2) Except as in this Act or by law otherwise provided, all fees payable under Part I to the officers therein mentioned for services connected with the administration of justice, other than those mentioned in subsection 1, shall be paid in the first instance by the county, unless the county jail is owned and maintained by a city, in which case the fees in respect of prisoners convicted for offences committed within the city limits shall be paid in the first instance by the city, and so far as they relate to prisoners convicted for offences committed in the county without the limits of the city, shall be paid in the first instance by the county. R.S.O. 1950, c. 5, s. 17 (2); 1953, c. 1, s. 1; 1957, c. 1, s. 2 (1).

Duties of
Auditor of
Criminal
Justice
Accounts

(3) The Lieutenant Governor in Council may make regulations respecting the examination, audit and approval by the Auditor of Criminal Justice Accounts of all accounts of or relating to the administration of justice in the provisional judicial districts and, notwithstanding *The Audit Act* or any other Act, such accounts shall not be subject to further examination or audit. 1957, c. 1, s. 2 (2).

R.S.O. 1960,
c. 27

18. Except as otherwise provided, in any matter concerning the administration of justice the fees and expenses set out in Schedule B shall be paid, upon the certificate or approval of the official therein indicated, by the county, unless the county jail is owned and maintained by a city, in which case the fees in respect of cases arising within the city limits shall be paid by the city and, so far as they relate to cases arising in the county without the limits of the city, shall be paid by the county. 1957, c. 1, s. 3.

19. Where a person is prosecuted or tried for an indictable offence and convicted or acquitted or otherwise discharged, the costs of the prosecution, including the actual travelling expenses of the Crown attorney, when not otherwise provided by law, shall be paid by the county. R.S.O. 1950, c. 5, s. 20.

20.—(1) Where in the case of a prosecution for an indictable offence the venue is changed from the county in which the offence is alleged to have been committed to another county, the county in which the trial would have taken place had the venue not been changed shall repay to the county to which the venue is changed all additional expenses to which the last-mentioned county is put by reason of the change of venue.

(2) Where the venue is changed from a provisional judicial district to a county, the county shall be reimbursed such expenses by the Province and, where the venue is changed from a county to a provisional judicial district, such expenses shall be repaid to the Province by the county.

(3) Any amount payable by one county to another under subsection 1 or by a county to the Province under subsection 2 is a debt recoverable by the county or the Crown, as the case may be, by action in a court of competent jurisdiction. R.S.O. 1950, c. 5, s. 21.

21. Where a person is charged with an indictable offence, every officer of the court before which he is tried, or any proceedings are had with regard to the charge, who renders any official service in the matter of the charge, or in the course of the trial, to the person so charged, shall be paid his lawful fee for such service by the county in the same manner as other fees payable to them in respect of official services rendered to the Crown in the conduct of public prosecutions, and no such fee shall in any case be demanded of or be payable by the person charged. R.S.O. 1950, c. 5, s. 22.

Accounts
against
county

22.—(1) All accounts and demands preferred against a county in respect of the administration of criminal justice shall be delivered to the clerk of the peace on or before the 15th days of January, April, July and October in every year, and shall be audited and approved by the board of audit. R.S.O. 1950, c. 5, s. 23 (1); 1957, c. 1, s. 5; 1960, c. 1, s. 1.

Audit may
be dispensed
with

(2) Notwithstanding subsection 1, the council of any county may by resolution dispense with the audit and approval by the board of audit. 1959, c. 1, s. 2.

Board,
how con-
stituted

(3) Subject to subsection 4, the board of audit consists of the judge of the county court, and two other persons, not more than one of whom is a member of the council, who shall be appointed annually at its first meeting by the council of the county.

Where city
concerned

(4) The council of every city that forms part of a county for judicial purposes and pays a part of the expenses of the administration of justice shall appoint one member of the board of audit, and in that case the county council shall appoint a member of the board of audit for every member appointed by the council of a city. R.S.O. 1950, c. 5, s. 23 (2, 3).

Remunera-
tion of
members of
board

(5) The county and city councils may pay each member of the board such sum as they respectively by by-law determine for his attendance at the audit and 10 cents for each mile necessarily travelled in going to and returning therefrom. R.S.O. 1950, c. 5, s. 23 (4); 1955, c. 2, s. 1.

Absence of
judge

(6) A junior judge, if any, in the absence or at the request of the judge may act in his stead. R.S.O. 1950, c. 5, s. 23 (5), *amended*.

Duties of
clerk of the
peace at
audit

23. The clerk of the peace, on the direction of the judge, shall convene the board of audit for the purpose of submitting to it the accounts and demands delivered to him and shall attend the audit, record the proceedings thereat and carry out the orders of the board in respect of the same. R.S.O. 1950, c. 5, s. 24.

When board
to consider
accounts

24.—(1) The accounts and demands shall be taken into consideration by the board of audit between the 15th and the last days of January, April, July and October in each year and shall be disposed of as soon as practicable. R.S.O. 1950, c. 5, s. 25 (1); 1960, c. 1, s. 2.

(2) The board of audit, on the completion of the October Report audit, shall make a report to the council of any irregularity in the accounts and demands, or of any claim made contrary to law, or of any other matter that the board considers should be brought to the notice of the council.

(3) The chairman of the board of audit has power to summon before the board any person, and to require him to give evidence on oath and to produce such documents and things as the board deems requisite to the full investigation of such accounts and demands, and for that purpose has the same power to enforce the attendance of any person and to compel him to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1950, c. 5, s. 25 (2, 3). Authority of chairman as to evidence

25. Where the account of a constable for services performed in connection with the arrest and detention of vagrants is deemed unreasonable or the arrests appear to have been unnecessary or to have been made for the purpose of making fees, the board may refuse to approve the accounts in whole or in part or may report the facts and its opinion thereon to the county council, which may, by resolution, refuse payment of such accounts in whole or in part. R.S.O. 1950, c. 5, s. 26. Discretion of board in case of arrest of vagrants

26.—(1) When the accounts have been audited and approved by the board of audit or such audit and approval have been dispensed with, the accounts shall be certified by the clerk of the peace and his certificate is sufficient evidence of such audit and approval or that such audit and approval have been dispensed with, as the case may be. 1959, c. 1, s. 3. Certificate of clerk of the peace

(2) In certifying accounts other than for the payment of constables, the certificate shall state the statute, if any, under which the expenditure is authorized. R.S.O. 1950, c. 5, s. 27 (2). Specifying authority for payment

27. So soon as the expenses of levying, collecting and managing the rates and taxes imposed in the county are paid, the treasurer of the county shall, unless it is otherwise provided by law, pay the amount of the fees that are certified as payable by the county, in preference to all other charges, in the following order: County treasurer's duty

1. All sums payable to the coroner, jailer, surgeon of the county jail, or to any other officer or person, for the support, care or safe keeping of the prisoners in the county jail, or for the repair and maintenance of the court house or jail.

2. The accounts of public officers and officers of the court of general sessions of the peace.
3. All sums payable for any other purpose connected with the administration of justice in the county.
4. All other sums certified as aforesaid in the order in which they are certified. R.S.O. 1950, c. 5, s. 30; 1958, c. 1, s. 2.

Evidence
of payment

28. A statutory declaration of the treasurer of the county or city, as the case may be, that the accounts have been paid by the county or city is sufficient evidence of that fact. R.S.O. 1950, c. 5, s. 31.

Metropolitan
Toronto
deemed a
city

29. The Municipality of Metropolitan Toronto shall be deemed to be a city for the purposes of this Act. 1954, c. 1, s. 2 (1).

SCHEDULE A

SHERIFFS

1. Serving subpoena or executing warrant.....	\$ 3.00
2. Mileage going to execute warrant or serve subpoena or in returning with prisoner, per mile actually travelled, one way,	
(a) in northern Ontario.....	.25
(b) in southern Ontario.....	.20
For the purpose of this item the dividing line between southern Ontario and northern Ontario is as follows:	
Highway No. 12 from Penetanguishene through Midland to its junction with No. 7 north of Sunderland, No. 7 eastward to Perth, No. 15 to Carleton Place, No. 29 to Arnprior, No. 17 to Renfrew, the paved county road from Renfrew through Douglas to Pembroke, No. 17 Pembroke to Chalk River; the said highways to be included in southern Ontario.	
3. Summoning grand and petit juries for the Supreme Court, general sessions and county court.....	40.00
Where extra petit panel is required, \$25.00 per panel.	
4. Attending sittings of the Supreme Court, general sessions, jury and non-jury sittings of the county court and county court judge's criminal court, per diem.....	10.00
5. For services in connection with the Supreme Court and general sessions exclusive of items 3, 4 and 5.....	20.00
6. Arrest of each prisoner upon a warrant (to be paid out of the county funds, or by the party as the case may be).....	3.00
7. Disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the penitentiary, to any other county or elsewhere or for other purposes in the discharge of the duties of his office (where not provided by law, or herein specifically provided for) to be rendered in account in detail with the proper vouchers, to the satisfaction of the board of audit.....	
8. Disbursements actually and necessarily incurred while in attendance upon a judge of the Supreme Court when holding a sitting of the Supreme Court or incurred in obedience to his order, to be paid by the treasurer of the county upon the order of the sheriff.....	
9. Conveying prisoners to the penitentiary, to another county on attachment, judge's order or habeas corpus, exclusive of disbursements for each day necessarily employed (to be paid out of the county funds or by the party, as the case may be)...	10.00
10. Making return upon attachment or writ of habeas corpus (to be paid out of the county funds or by the party, as the case may be).....	2.00
11. Levying fines or issues on recognizances estreated, or other process (to be levied under section 5 of Part I), \$5.00 per \$100.00 on the first \$400.00 of the sum levied, exclusive of mileage at 10 cents per mile; and on all sums above \$400.00	

SCHEDULE A—*Continued*SHERIFFS—*Continued*

the same allowance as on executions in civil proceedings. . . .
Where a levy has not been made, \$2.00 for every \$100.00 of
the amount received in lieu of the above amount.

- | | |
|---|---------|
| 12. Attending and superintending the carrying into execution of the sentence of the court in capital cases, exclusive of all sums which are unavoidably disbursed | \$20.00 |
| 13. For all returns (quarterly and annual) per quarter. | 25.00 |
| 14. General fee as an allowance to cover services under any statute, rule, order in council or otherwise for which no fee is provided, per quarter. | 75.00 |

R.S.O. 1950, c. 5, Sched. A, *part*;
O. Reg. 111/57, reg. 1 (1-4);
1958, c. 1, s. 3 (1-3).

CROWN ATTORNEYS

In all criminal trials in which no costs have been ordered to be paid, or if ordered to be paid, cannot be made of the defendant, the Crown attorney is entitled to receive for the services rendered by him in such case, the following fees to be paid upon the certificate of the chairman of the board of audit and to be taken in lieu of, and not in addition to, the fees which have been heretofore payable for services rendered in such cases, viz.:

- | | |
|---|---------|
| 1. All services before and during the court of general sessions of the peace, | |
| (a) for each completed case. | \$50.00 |
| (b) where a trial of a case lasts more than one day, an additional fee for each day after the first day of the trial. . . . | 25.00 |
| 2. All services before and during the county court judge's criminal court, | |
| (a) for each completed case. | 35.00 |
| (b) where a trial of a case lasts more than one day, an additional fee for each day after the first day of the trial. . . . | 25.00 |
| 3. For each completed application for preventive detention before a county court judge or a magistrate. | 35.00 |
| 4. Attendance on judge of the county court by his special requisition in writing where application is made by a prisoner to be admitted to bail. | 2.00 |
| 5. Services prior to sittings of the Supreme Court, per case. | 7.50 |
| 6. Assisting Crown counsel at Supreme Court, per diem. | 15.00 |
| 7. If copies of depositions are required by the presiding judge or Crown counsel, the same shall be prepared by the Crown attorney and allowed at the rate of 10 cents per folio. | |

SCHEDULE A—Continued

CROWN ATTORNEYS—Continued

8. Affidavit and application to judge for habeas corpus ad testificandum and writ or similar proceedings to obtain the attendance before the court of a prisoner.....	\$ 2.00
9. Receiving and examining all informations, depositions, documents and papers connected with a criminal charge, and attending magistrate's court in summary trials under the <i>Criminal Code</i> ,	
(a) per case.....	12.00
(b) where case is tried outside the city, town or village in which the Crown attorney resides an additional allowance, not including expenses, per day.....	5.00
(c) for each adjournment.....	2.00
10. Attending preliminary inquiry in the place in which the Crown attorney resides, per inquiry.....	10.00
Out of city, town or village in which Crown attorney resides, additional per diem (not including expenses).....	5.00
11. Attending inquest,	
(a) where inquest is held in part.....	15.00
(b) where inquest is completed.....	25.00
12. For each mile necessarily travelled each way to attend an inquest.....	.10
13. Postage, actual amount disbursed, payable at the end of each quarter year.....	
14. General fee as an allowance to cover all services for which no fee is provided, including departmental reports, under any statute, order in council, departmental direction, or otherwise, and including advising magistrates, justices of the peace, coroners and provincial police officers, in the discharge of their duties and the public generally on criminal matters, per quarter.....	150.00
(a) Where a number of charges are pending against the same person, and a conviction has been obtained on one or more indictments, fees and costs on the further proceedings upon the other charges are not to be made or allowed on taxation, unless in cases where the judge or magistrate would, in the event of additional convictions, impose a heavier sentence, or unless there are special circumstances which, in the opinion of the judge or magistrate, render it expedient that the other cases, or some of them, should be proceeded with and tried up to three charges.	
(b) In cases of indictment for the obstruction, or the non-repair of a highway or bridge, or of indictment for nuisance (where there is a bona fide dispute as to boundary, or title, or claim of right, and where no present public inconvenience is being suffered from what is complained of) the Crown Attorney is not entitled to charge costs to the public, without the special sanction of the Attorney General, but will collect his fees and costs from the parties only.	

SCHEDULE A—*Continued*CROWN ATTORNEYS—*Continued*

(c) When the offices of Crown attorney and clerk of the peace are held by the same individual and a similar or the same fee is provided for the same service to each officer only one fee is to be charged or allowed.

R.S.O. 1950, c. 5, Sched. A, *part*;
1951, c. 83, s. 1 (1); 1957, c. 1,
s. 7 (1-3); O. Reg. 111/57, reg. 1 (1).

CLERKS OF THE PEACE

1. Drawing precepts to summon grand and petit juries, attending judge to sign same, transmitting to the sheriff and making up records of the court (when completed).....	\$15.00
2. Issuing subpoena.....	.75
3. Every copy of subpoena when necessary.....	.25
4. For every recognizance to keep the peace, for good behaviour, to appear or for calling parties on their recognizance or discharging same.....	.50
5. For all services in relation to estreats under the <i>Criminal Code</i> or <i>The Estreats Act</i>	4.00
6. Making out and delivering to the sheriff a calendar of the sentences of each court.....	1.50
7. Preparing and issuing bench warrant or commitment in any case where no fee is especially assigned therefor by any statute or by this tariff.....	1.00
8. Receiving and filing each indictment, presentment of the grand jury, oath of qualification of a justice of the peace, voters' lists for an entire municipality under <i>The Voters' Lists Act</i> , each.....	.50
9. Making out a certified copy or abstract of sentence sent with the prisoner to the penitentiary or reformatory.....	1.00
10. For every single search.....	.25
11. For every general search.....	.50
12. Swearing each party to an affidavit, where no charge is elsewhere provided for it, to be paid out of the county funds, or by the party for whom the affidavit is sworn according to the nature of the case.....	.25
13. Administering oaths to any public officer when authorized to do so (to be paid by officer).....	1.00
14. For every report or return required by statute where no remuneration has been provided by this table or by statute..	1.00
15. Making every copy of extract of a record or paper or document of any kind, required to be made by law, or by the order of the court, and when no charge is fixed by law, per folio...	.10

SCHEDULE A—Continued

CLERKS OF THE PEACE—Continued

16. Every letter written upon matters connected with the business of the court and in connection with the administration of justice.....

\$.25
17. All necessary outlays for postage and publishing to be added in all cases.....
18. For filing each exhibit list, return or other paper where no fee is specially provided for, except account claims against the county, and papers connected with matters to be charged against private individuals (to be paid out of the county funds or by the party for whom service is rendered according to the nature of the case).....

.10
- The above tariff of fees and costs is applicable in all proceedings where costs are chargeable or ordered to be paid by private parties.
19. Receiving and filing accounts and demands preferred against the county, numbering them and submitting for audit, attending board of audit and certifying accounts—exclusive of Metropolitan Toronto, per quarter.....

20.00
- Metropolitan Toronto, per quarter.....

50.00

When the offices of the clerk of the peace and Crown attorney are held by the same person and there is a similar or the same fee provided for the same service to each officer, only one fee is to be charged and allowed.

O. Reg. 111/57, reg. 1 (5).

COUNTY COURT CLERKS

In the County of York
fees to be taken by
clerk of the peace.

Attending general sessions and county court judge's criminal court and all services in court, per diem..... \$10.00

R.S.O. 1950, c. 5, Sched. A, *part*;
1959, c. 1, s. 4 (1).

LOCAL REGISTRARS S.C.O.

Attending sittings of the Supreme Court, jury or non-jury per diem..... \$10.00

1959, c. 1, s. 4 (2).

SCHEDULE A—*Continued*

CONSTABLES

No fees under this heading are payable to a constable who is employed exclusively as a constable and is in receipt of a salary for that employment.

1. Arresting a person upon a warrant or arresting without a warrant a person who is subsequently convicted or committed for trial. \$ 2.00
2. Executing search warrant. 2.00
4. On serving a summons or subpoena, making or attempting, upon proof of due diligence, to make an arrest, taking a prisoner to trial or jail, attending a coroner's inquest or as court constable making distress or executing a search warrant,
 - (a) where a private conveyance is used, mileage one way, per mile.20
 - (b) where public conveyance is used, the actual travelling expenses incurred by constable and prisoner.
5. Attending as court constable sittings of the Supreme Court, general sessions and county court or county court judge's criminal court, per day. 8.00
6. Summoning jury for coroner's inquest, including attendance at inquest. 6.00
7. Attending each adjournment of a coroner's inquest. 3.00
8. Serving a distress warrant or advertising under a distress warrant. 1.50
9. Appraisements, whether by one or more appraisers, 3 cents in the dollar on the value of the goods.
10. Catalogue, sale and commission and delivery of goods, 5 cents in the dollar on the net proceeds from the sale of the goods.

R.S.O. 1950, c. 5, Sched. A, *part*; 1957, c. 1, s. 7 (4);
O. Reg. 111/57, reg. 1 (1); 1958, c. 1, s. 3 (4).

SCHEDULE B

(Section 18)

POST MORTEM EXAMINATIONS AND ANALYSES

1. Upon the certificate of the Attorney General, the Deputy Attorney General or the Crown attorney for the analysis of human blood or urine or both to determine its alcoholic content..... \$10.00
2. Attendance at jail or lockup for the purpose of procuring blood or urine samples or both..... 5.00
3. For blood stain groupings made at the request of the coroner or Crown attorney..... 25.00
4. Upon the certificate of the Attorney General or Deputy Attorney General or Crown attorney for a physical examination by any legally qualified medical practitioner..... 5.00
5. For any other scientific examination or analysis, such fee as the Attorney General or the Deputy Attorney General in his discretion allows.
6. Upon the certificate of the official empowered to authorize the analysis or examination, the actual and reasonable living expenses of the person making the examination or analysis while necessarily absent from home making an examination or analysis.
7. Upon the certificate of the official empowered to authorize such examination or analysis, the expense of having the body of a deceased person or any material sent to the place where the examination or analysis is to be performed and returning it.

1957, c. 1, s. 8.

FORM 1

(Section 15)

Province of Ontario:

.....to.....

Constable of the.....of.....

Date of Service	Number of Item	Nature of Service and Particulars of Mileage	Amount Claimed by Official	Deferred for Further Inquiry	Dis-allowed	Amount Payable by the Government

In the case of a constable, the magistrate, Crown attorney or coroner shall add the following certificate:

I hereby certify that the above services were duly performed by constable.....under my direction, and that the above-named prisoner was committed by me for trial at the.....court.

(Magistrate or Crown Attorney or Coroner.)

Place
Date

(Affidavit on back)

To Wit: } I,.....of.....
County of } in the county of.....make oath and say:

(1) That the within account of services performed by me is true in every particular.

(2) That I have not been paid any part of the charges, nor has any other person to my knowledge received payment for me or on my behalf, nor has any other person, to my knowledge, rendered an account for the same services.

(3) That to perform such services I necessarily travelled the distances in the account mentioned.*

(4) That I am (not) employed exclusively as a constable.

Sworn before me, etc.

[*Where special explanations are given, add: (5) "and that the explanatory statements written upon the said account are true in every particular."]

Endorsement on back of Account.	January, 19....	County of.....	Account of.....	Constable.
---------------------------------	-----------------	----------------	-----------------	------------

CHAPTER 6

The Agricultural Associations Act**1.** In this Act,Interpre-
tation

(a) "association" means an organization mentioned in section 2 or designated under section 2 or to which the Act applies under section 21 or constituted an association under section 23;

(b) "Minister" means the Minister of Agriculture.
R.S.O. 1950, c. 8, s. 1, *amended*.

2. The following associations, societies and organizations are bodies corporate under this Act:Certain
bodies are
corporations
under Act

The Ontario Fruit and Vegetable Growers' Association,
The Entomological Society of Ontario,
The Dairymen's Association of Eastern Ontario,
The Dairymen's Association of Western Ontario,
The Ontario Poultry Association,
The Eastern Ontario Poultry Association,
The Ontario Bee-keepers' Association,
The Ontario Agricultural and Experimental Union,
The Ontario Horse Breeders' Association,
The Gardeners' and Florists' Association,
The Ontario Corn Growers' Association,
The Ontario Plowmen's Association,
The Ontario Swine Breeders' Association,

and such other associations, societies, institutes or organizations as the Lieutenant Governor in Council designates.
R.S.O. 1950, c. 8, s. 2, *amended*.

3. The membership of each association shall consist of annual subscribers, and the membership fee shall be fixed by by-law. R.S.O. 1950, c. 8, s. 3.

4. Each association shall have a constitution and by-laws under which the association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister before the same has force or effect. R.S.O. 1950, c. 8, s. 4.

Annual
meeting

5. Each association shall hold an annual meeting at such time and place as are determined by by-law. R.S.O. 1950, c. 8, s. 5.

Election of
directors

6. Each association, at its annual meeting, shall elect a board of directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. R.S.O. 1950, c. 8, s. 6.

Non-
members,
election of

7. The members may elect as director a person not a member of the association, but the person so elected must, within ten days, become a member, and he is entitled to act as director only after he has become a member of the association. R.S.O. 1950, c. 8, s. 7.

Statements
at annual
meeting

8. At each annual meeting the retiring officers shall present a full report of their proceedings and of the proceedings of the association and a detailed statement of the receipts and expenditure for the previous year and of the assets and liabilities, duly audited, and a copy of the report and of each of the statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each association as the association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. R.S.O. 1950, c. 8, s. 8.

Officers

9.—(1) The directors shall, from among themselves, elect a president and one or more vice-presidents and shall also from among themselves or otherwise elect a secretary and a treasurer or a secretary-treasurer.

Quorum

(2) Except where otherwise provided, a majority of the directors of the association forms a quorum. R.S.O. 1950, c. 8, s. 9.

Powers of
directors

10. The directors have full power to act for and on behalf of the association, and all grants of money and other funds of the association shall be received and expended under their direction, subject to the by-laws and regulations of the association. R.S.O. 1950, c. 8, s. 10.

Auditing of
accounts

11. The Minister may appoint a person who shall audit the accounts of any association, and such auditor shall present a report of the result of his audit to the officers of the association, and also to the Minister. R.S.O. 1950, c. 8, s. 11.

12. The members of the association may by by-law provide that only those members who have paid their subscriptions at least one week in advance of the annual meeting are qualified to vote at the annual meeting for the election of directors. R.S.O. 1950, c. 8, s. 12. ^{Right of voting}

13. Except as otherwise provided, a vacancy occurring by the death or resignation, or failure to qualify as member, of any officer or director may be filled by the remaining officers of the association, and it is the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but, in the event of the remaining officers being insufficient to form a quorum or if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in the manner provided in section 14. R.S.O. 1950, c. 8, s. 13. ^{Vacancies in offices}

14.—(1) In the event of an election of any directors of an association not being held at the time or place directed by by-law or being for any reason illegal and void, the persons in office at the time when such officers or directors should have been elected shall continue to be the officers of the association until their successors are legally appointed. ^{Continuance in office}

(2) In the event of any such non-election or illegal election, a special meeting of the members of the association shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of the association. R.S.O. 1950, c. 8, s. 14. ^{Failure to elect, special meeting}

15. A special meeting of the directors of an association may be called by the president thereof or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, by any three members of the association, of which meeting at least seven days notice shall be given to each member. R.S.O. 1950, c. 8, s. 15. ^{Special meeting of directors}

16.—(1) The treasurer of every association before entering upon the duties of his office shall give such security either by joint or several covenant with one or more sureties, or otherwise as the board of directors deems necessary, for the faithful performance of his duties and especially for the due accounting for and paying over of all money that comes into his hands. ^{Security by treasurer}

Duty of
board as to
security

(2) It is the duty of the board in each year to inquire into the sufficiency of the security given by the treasurer and to report thereon and, where the same treasurer is reappointed from year to year, his reappointment shall not be considered as a new term of office but as a continuation of the former appointment, and any bond or security given to the association for the faithful performance of his duties under such re-appointment continues valid as against the parties thereto.

Personal
responsi-
bility of
officers
for loss

(3) If the officers of an association neglect to procure and maintain proper and sufficient security, they are personally responsible for all funds of the association in the possession of the treasurer. R.S.O. 1950, c. 8, s. 16.

Legislative
grant

17.—(1) Every association is entitled to receive annually out of the moneys appropriated by the Legislature for the purpose a specified sum on condition,

(a) that the number of *bona fide* members is at least fifty;

(b) that the secretary of the association will, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;

(c) that this Act has been complied with; and

(d) that none of the funds of the association from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the association.

Grants from
municipal
councils

(2) Any municipal council may grant or loan money or grant land in aid of any agricultural association formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such association has made the returns required by this Act, provided that the total amount or value of the money or land granted or loaned by any municipality to an agricultural association under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town and \$1,000 in the case of a village. R.S.O. 1950, c. 8, s. 17.

Forfeiture
of powers
for
non-user

18. If an association ceases for twelve consecutive months to do business as required by this Act and by its constitution and by-laws, or if the Minister is satisfied, after an inquiry of

which the association was given due notice to appear, that the business of the association is not being properly conducted, the Minister may declare the corporate powers of the association forfeited. R.S.O. 1950, c. 8, s. 18.

19. The Ontario Horticultural Exhibition, the Ottawa Winter Fair, the Peninsular Winter Fair and such other organizations as are designated by the Lieutenant Governor in Council are corporate bodies under this Act with power to acquire and hold land as a site for fairs and exhibitions, to sell, mortgage, lease or otherwise dispose of the same or any other property held by such body, and the Lieutenant Governor in Council may prescribe such constitution, rules and regulations as are deemed necessary. R.S.O. 1950, c. 8, s. 19.

20.—(1) Any association, society, institute or organization mentioned in or designated under section 2 has power to acquire and hold land for such purposes as the Lieutenant Governor in Council approves and has power to sell, mortgage, lease or otherwise dispose of such land.

(2) The Lieutenant Governor in Council may regulate and govern the acquisition, holding or disposition of land by associations, societies, institutes or organizations, or by any one or more of them. 1953, c. 2, s. 1.

21. Upon the petition of any association or society not subject to this Act but formed for the purpose of advancing the interests of any branch of agriculture being presented to the Lieutenant Governor in Council, the Lieutenant Governor in Council may declare that this Act applies to the association or society so petitioning, and thereafter this Act applies to such association or society in the same manner and to the same extent as if it had been incorporated under this Act. R.S.O. 1950, c. 8, s. 20.

22.—(1) An advisory board for live stock may be formed to advise the Minister regarding matters of interest to the live stock industry.

(2) The Lieutenant Governor in Council may direct how the board shall be constituted, and may prescribe the duties and powers of the board.

(3) Members of the advisory board shall receive an allowance for their time and their necessary travelling expenses in attending meetings of the board or a committee of the board. R.S.O. 1950, c. 8, s. 21.

Farmers' and
women's
institutes

23.—(1) The formation of boards of agriculture, farmers' institutes and women's institutes for the purpose of disseminating information in regard to agriculture and of improving domestic life shall be permitted under this Act, and the same constitute associations under this Act.

Regulations

(2) The Lieutenant Governor in Council may make regulations providing for the number and location of the boards of agriculture, framers' institutes and women's institutes, for their general guidance and direction, and fixing the grants and the conditions upon which the grants are to be paid. R.S.O. 1950, c. 8, s. 22.

CHAPTER 7

The Agricultural Committees Act

1. In this Act,

Interpre-
tation

- (a) "agricultural organization" includes an agricultural co-operative, agricultural association, agricultural society, agricultural club and any branch of any of them;
- (b) "agricultural representative" means an agricultural representative appointed under *The Agricultural Representatives Act*; R.S.O. 1960, c. 10
- (c) "county" includes a territorial district;
- (d) "Department" means the Department of Agriculture;
- (e) "Minister" means the Minister of Agriculture. R.S.O. 1950, c. 9, s. 1, amended.

2.—(1) A committee consisting of not more than fifteen persons may be formed in any county, and the name of every such committee shall bear the name of such county. Committee, formation

(2) Where only one agricultural representative has been appointed for two counties, one committee may be formed for the two counties. One committee for two counties

(3) Where two agricultural representatives have been appointed for one county, two committees may be formed for the county. Two committees for one county R.S.O. 1950, c. 9, s. 2.

3.—(1) Where an agricultural representative in a county receives written notice from any three or more agricultural organizations within his county requesting the organization of an agricultural committee, he shall forthwith call a general meeting of representatives of the agricultural organizations in the county for the purpose of forming a committee. Organiza-
tion

(2) At the meeting a committee of not more than thirteen persons shall be selected by such mode as is determined at the meeting for the current year or until their successors are selected and every agricultural organization is entitled Selection of
committee

to at least one representative on the committee, unless there are more than thirteen agricultural organizations represented at the meeting, in which event one person may be selected as the representative of two or more agricultural organizations.

Chairman,
vice-
chairman

(3) The committee so selected shall appoint an acting chairman and acting vice-chairman from among themselves and the agricultural representative shall be the acting secretary-treasurer of the committee.

Report to
Minister

(4) A report of the meeting, certified by the acting chairman and the acting secretary-treasurer showing the names of the agricultural organizations represented at the meeting and the names and addresses of the persons selected as members of the committee, together with such other information as the Minister may require, shall be forwarded to the Minister within ten days after the holding of the meeting. R.S.O. 1950, c. 9, s. 3.

Committee
declared
agricultural
committee

4.—(1) Upon receipt of the report mentioned in subsection 4 of section 3, the Minister may declare such committee to be an agricultural committee.

Members

(2) The members of the committee shall be members of the agricultural committee and the agricultural representative shall be the secretary-treasurer. R.S.O. 1950, c. 9, s. 4.

Appoint-
ment of
members:

5.—(1) One member may be appointed to the committee by the member or members of the Legislature whose electoral district or districts include any rural part of the county and such member shall hold office during pleasure.

in county

(2) In the case of a county agricultural committee, one member may be appointed annually by the county council.

in district

(3) In the case of a district agricultural committee, one member may be appointed by the Minister and shall hold office during pleasure. R.S.O. 1950, c. 9, s. 5.

Who to be
members of
committee

6. No person shall be selected or appointed as a member of a committee except a farmer, farm woman, retired farmer, farm youth or an official of an agricultural organization. R.S.O. 1950, c. 9, s. 6.

Annual
meeting

7. The agricultural representative shall call an annual meeting of representatives of all agricultural organizations in the county and members of the agricultural committee for the ensuing year shall be selected and a chairman and vice-chairman shall be elected thereat in such manner as is prescribed by the rules of the agricultural committee. R.S.O. 1950, c. 9, s. 7.

8. The objects and purposes of an agricultural committee Objects and purposes are,

- (a) to co-operate with and make suggestions to the agricultural representative;
- (b) to consider and make recommendations to appropriate authorities with respect to soil conservation, reforestation, weed control, health of animals, plant diseases, crop production, marketing problems and such other matters as are deemed advisable for the improvement of agriculture in the county;
- (c) to co-ordinate the undertakings of the various agricultural organizations in the county;
- (d) to assist in promoting farm youth activities in the county. R.S.O. 1950, c. 9, s. 8.

9. The Minister may assign to any committee any matter Assignment of matter or undertaking or undertaking that he considers of special interest to agriculture. R.S.O. 1950, c. 9, s. 9.

10. An agricultural committee may initiate or promote Promotion of matter or undertaking any matter or undertaking for the purpose of improving agriculture. R.S.O. 1950, c. 9, s. 10.

11. Subject to the approval of the Minister, an agricultural committee may require producers of any agricultural product in the county to register their names and addresses with the secretary-treasurer and to furnish such information respecting the production, other than cost, of such agricultural product as the agricultural committee determines. R.S.O. 1950, c. 9, s. 11.

12. An agricultural committee may establish an executive Executive committee committee to consist of three or five members for such purposes as the committee determines. R.S.O. 1950, c. 9, s. 12.

13. The Lieutenant Governor in Council may make Regulations regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 9, s. 13.

14. Subject to the approval of the Minister, the travelling Expenses expenses of the members shall be paid out of the moneys appropriated by the Legislature for the purpose. R.S.O. 1950, c. 9, s. 14.

CHAPTER 8

The Agricultural Development Act**1.** In this Act,

Interpretation

(a) "Commissioner" means the Commissioner of Agricultural Loans;

(b) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 10, s. 1.

2.—(1) The office of Commissioner of Agricultural Loans is continued and the Commissioner of Agricultural Loans is continued as a corporation sole under that name with perpetual succession and an official seal and may sue and be sued under that name in the same manner as any other corporation sole, and the Lieutenant Governor in Council may appoint a person to hold that office. Commissioner of Agricultural Loans

(2) The Lieutenant Governor in Council may appoint an Assistant Commissioner of Agricultural Loans who shall have and may exercise and perform all the powers, rights, duties and obligations of the Commissioner. R.S.O. 1950, c. 10, s. 2. Assistant Commissioner

3. The Commissioner shall promote agricultural development by means of loans as provided in this Act and in any other manner that the Commissioner deems advisable. R.S.O. 1950, c. 10, s. 3. Duty of Commissioner

4. The Commissioner, with the approval of the Lieutenant Governor in Council, may issue bonds of the Commissioner to the amount of \$500,000 in such denominations and at such rates of interest as the Commissioner deems proper and subject to such conditions as to the sale and disposal thereof as the Commissioner deems advisable. R.S.O. 1950, c. 10, s. 4. Commissioner may issue bonds

5. The Lieutenant Governor in Council may authorize the Treasurer to purchase out of the Consolidated Revenue Fund any bonds or debentures issued by the Commissioner under this Act. R.S.O. 1950, c. 10, s. 5. Treasurer may purchase bonds

6. All moneys received by the Commissioner from the sale of the bonds issued under section 4 shall be deposited in a Proceeds of bonds; how dealt with

separate account of the Commissioner in a chartered bank of Canada or in the office of a company or corporation authorized to accept deposits and such moneys shall be used solely for the purposes set forth in this Act. R.S.O. 1950, c. 10, s. 6.

Issue of
debentures
by Com-
missioner

7.—(1) The Commissioner, with the approval of the Lieutenant Governor in Council, may issue debentures in such denominations and at such rate of interest as the Commissioner deems advisable and as are approved by the Lieutenant Governor in Council, and the proceeds of any debentures so issued shall be disposed of in the manner provided by section 6 in respect to the proceeds of the sale of bonds issued by the Commissioner.

Security

(2) The debentures so issued shall be issued upon the security of the assets of the Commissioner and shall not exceed the amount of such assets, and such debentures are a first charge upon all the assets and revenues of the Commissioner.

Lawful in-
vestment

(3) Notwithstanding anything in any other Act, the bonds and debentures of the Commissioner are a lawful investment for municipal, school and trust funds. R.S.O. 1950, c. 10, s. 7.

Authority to
guarantee
payment of
bonds and
debentures

8.—(1) The Lieutenant Governor in Council may authorize the Treasurer to guarantee payment on behalf of the Province of Ontario of any bonds or debentures issued by the Commissioner under this Act.

Form of
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1950, c. 10, s. 8.

Commis-
sioner may
make loans,
for what
purposes

9.—(1) Out of the moneys at his disposal from time to time as the proceeds of the sale or hypothecation of any bonds or debentures issued by the Commissioner, the Commissioner may make loans for the following purposes and no other:

1. Acquiring land for agricultural purposes.
2. The erection of farm buildings essential to production.
3. To pay off charges existing against land at the time of acquisition by the borrower under a will or by descent.
4. To pay off encumbrances, in which cases loans shall not exceed 50 per cent of the valuation.

5. For the purpose of providing tile drainage.
6. To purchase breeding live stock.
7. To consolidate outstanding liabilities incurred for productive agricultural purposes.
8. For such other purposes relating to the development and operation of the applicant's farm as the Commissioner approves. R.S.O. 1950, c. 10, s. 9 (1).

(2) At the time of or after the making of a loan under this Act, the Commissioner may accept as collateral security for the loan a life insurance policy or an assignment thereof or any other security that he deems proper. R.S.O. 1950, c. 10, s. 9 (2), *revised*.

(3) The Commissioner may make such composition, extension, or scheme of arrangement with any borrower on his loan as the Commissioner deems advisable. R.S.O. 1950, c. 10, s. 9 (3).

10. The Commissioner, with the approval of the Lieutenant Governor in Council, may appoint committees, each of which shall be composed of two or more competent persons, one of whom is or has been a practical farmer, to consider and report to the Commissioner upon applications and upon problems that may arise in connection with loans already made. R.S.O. 1950, c. 10, s. 10.

11. Every applicant for a loan under this Act may be required to appear in person before the Commissioner or a qualification committee and shall submit evidence to the satisfaction of the Commissioner or committee,

- (a) that he is a British subject of at least twenty-one years of age and has been resident in Canada for at least three years;
- (b) that he has had at least three years experience in farming and has displayed average ability and capacity;
- (c) that he is of good character; and
- (d) that he is actually engaged or intends to engage upon the land upon the security of which the loan is to be made. R.S.O. 1950, c. 10, s. 11.

Limitations
as to
loan

12.—(1) No loan shall exceed \$7,500 and every loan shall be secured by a first mortgage upon lands suitable for agricultural purposes.

On less than
50 acres

(2) On a property of less than fifty acres, the maximum valuation to be recognized by the Commissioner is \$300 per acre. R.S.O. 1950, c. 10, s. 12.

Valuator's
report

13.—(1) Before making a loan under this Act, the Commissioner shall secure a report from a competent valuator as to the value of the security offered by the applicant.

Mode of
valuing

(2) The land and buildings shall be valued on the basis of their value for agricultural purposes.

Insurance

(3) The buildings upon the land shall be insured to their full insurable value. R.S.O. 1950, c. 10, s. 13.

Extent of
loan

14. Where the Commissioner is satisfied that the conditions of this Act have been complied with and that agricultural development will be promoted by the loan, the Commissioner may make a loan to the applicant to the extent of 50 per cent of the value of the security as shown by the valuator's report. R.S.O. 1950, c. 10, s. 14.

Loan,
how
repayable

15.—(1) Except as provided in this Act, every loan made under this Act is repayable in equal annual instalments of principal and interest sufficient to discharge the debt at the end of such period as is agreed upon, but no loan shall be made for more than thirty years.

Payments
on account
of loan

(2) Payments on account of the loan, in addition to those provided for in the mortgage or agreement, may be made at any time.

Provisions of
payment,
alterations
in

(3) Notwithstanding anything in this Act, the Commissioner may accept payment of interest without principal for any period not exceeding three years and may, at any time at his discretion, alter the provisions for payment of any mortgage and may consolidate the total indebtedness owing by any mortgagor to the Commissioner, inclusive of accrued interest and moneys paid for taxes and insurance, to the date of consolidation and may alter the provisions of the mortgage so that the consolidated indebtedness with interest will be repayable in annual instalments within a period not exceeding thirty years from the date of consolidation.

Regulations

(4) The Commissioner may, with the approval of the Lieutenant Governor in Council, make regulations relating to

sales made by the Commissioner under the power of sale contained in a mortgage where the purchase money or part thereof is secured by an agreement for sale.

(5) The Commissioner may accept a release of the equity of redemption existing by virtue of a mortgage to him and may sell any mortgaged property that he has thus acquired or that he is empowered to sell by virtue of the power of sale contained in a mortgage, at such price and upon such terms as in his discretion are deemed advisable. Equity of redemption

(6) When a sale has been made by the Commissioner under the power of sale contained in a mortgage and the purchase money or part thereof is secured by an agreement for sale and any instalment, whether for principal or interest payable under the agreement, is not punctually paid, or if the purchaser makes default in the performance of any of the terms of the agreement, the Commissioner, without any formal re-entry or taking of possession and without resorting to proceedings in equity or at law, may, upon ten days notice in writing to the purchaser directed by mail to him at his last known address, rescind the agreement and resell or otherwise deal with the property as provided for in the mortgage, to the same extent as if the agreement had not been entered into. R.S.O. 1950, c. 10, s. 15. Delay in payments

16. Every mortgage made under this Act shall be made in accordance with *The Short Forms of Mortgages Act* and may contain such further covenants, provisoes and conditions as the Commissioner deems proper, and the Commissioner has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act as a mortgagee has under the laws of Ontario. R.S.O. 1950, c. 10, s. 16. Mortgages, how made R.S.O. 1960, c. 374

17. Notices, mortgages, discharges and other documents of every kind and description made or used under this Act shall be prepared by the Commissioner or by some person designated by the Commissioner. R.S.O. 1950, c. 10, s. 17. Commissioner to prepare notices, mortgages, etc.

18.—(1) If at any time in the opinion of the Commissioner any money advanced under this Act has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, or if the security depreciates in value, the Commissioner may refuse to make any further advance and may call in the whole amount already advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower shall at once repay the same with interest at the rate set forth in the mortgage, and in default of payment the Where money misapplied

Commissioner has the like remedies for recovery of the same as if the time for repayment thereof had fully arrived.

Term of
mortgage

(2) It shall be a term of every mortgage taken as security for a loan that, upon the sale of the farm land mortgaged, the loan will, at the option of the Commissioner, immediately become due and payable. R.S.O. 1950, c. 10, s. 18.

Payments
on
mortgages,
how
disposed of

19.—(1) Every payment made on a mortgage given under this Act shall be disposed of as follows:

1. The portion of the payment that consists of principal shall, at the option of the Commissioner, be paid to the Treasurer as received to provide for the payment of the principal payable upon the debentures issued by the Agricultural Development Board or by the Commissioner and held by the Treasurer; or the Commissioner may, if he so desires, retain the principal portion of the payment and reinvest it in first mortgages according to this Act, and such moneys shall, while in the hands of the Commissioner, be placed in a special account and shall be kept entirely separate and distinct from the other accounts and funds of the Commissioner, and in the event of the Commissioner retaining and reinvesting such principal, the Treasurer shall, at the end of each fiscal year and upon the certificate of the Provincial Auditor, cancel the Commissioner's debentures up to the amount reinvested by the Commissioner during such year and accept from the Commissioner new debentures for such amount.
2. The portion of the payment that consists of interest and all other revenue of the Commissioner on account of loans shall be applied, in the first instance, in payment of salaries and other operating expenses of the Commissioner and then to payment of losses written off or sustained on the sale of mortgaged properties and the balance then remaining shall be paid to the Treasurer in payment of interest on debentures issued by the Commissioner.

Other
revenue

(2) Any other revenue of the Commissioner on account of loans shall be credited to a reserve fund account and shall at the end of each month be transferred to the Consolidated Revenue Fund. R.S.O. 1950, c. 10, s. 19.

Commis-
sioner to
obtain re-
ports as to
condition of
securities

20. The Commissioner from time to time shall obtain reports as to the condition of any securities taken by him for loans under this Act and as to the progress and prospects of the borrowers, and for this purpose the Department of

Agriculture may co-operate with the Commissioner by rendering assistance of an educational or other nature that appears calculated to facilitate the success of the borrower. R.S.O. 1950, c. 10, s. 20.

21. The Lieutenant Governor in Council may fix the salaries or other remuneration and an allowance for travelling or other expenses of the Commissioner, the Assistant Commissioner, if any, and his employees. R.S.O. 1950, c. 10, s. 21.

22. The salaries or other remuneration of the Commissioner and his officers and employees and all expenses of the Commissioner or connected with the administration of this Act are a first charge upon the interest payments received by the Commissioner and are payable out of same as approved by the Commissioner, and any additional moneys required for these purposes shall be paid out of the Consolidated Revenue Fund upon the certificate of the Treasurer or of an officer designated by him for that purpose. R.S.O. 1950, c. 10, s. 22.

23.—(1) The Commissioner shall make an annual report in writing to the Treasurer showing in detail the number and amount of loans made by the Commissioner during the last preceding fiscal year, and the amount of every issue of bonds or debentures made by the Commissioner and outstanding, with the date and terms of every such issue, and the expenses of administration, and with such other particulars as the Treasurer requires. 1950, c. 10, s. 23 (1), *amended*.

(2) Every such report shall be laid before the Assembly at the next ensuing session of the Legislature. R.S.O. 1950, c. 10, s. 23 (2).

24. The Commissioner, with the approval of the Lieutenant Governor in Council, may make regulations respecting,

- (a) the proceedings of the Commissioner;
- (b) the mode in which applications for loans are to be made and the forms thereof;
- (c) the forms of mortgages to be taken by the Commissioner, including all provisions to be inserted therein;
- (d) the fees and expenses payable by borrowers under this Act;

- (*e*) the conditions that may be imposed in regard to loans;
 - (*f*) the consideration and granting of applications for loans;
 - (*g*) the valuations to be made in relation to applications for loans;
 - (*h*) the records, books and accounts to be kept by the Commissioner and the auditing of its accounts;
 - (*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 10, s. 24.
-

CHAPTER 9

The Agricultural Development Finance Act

1.—(1) The Treasurer of Ontario may borrow money by means of deposits in any amounts and from any persons and may open offices for this purpose at such places in Ontario as he finds expedient. R.S.O. 1950, c. 11, s. 1 (1), *revised*. Powers of
Treasurer of
Ontario to
borrow

(2) Moneys deposited under this section are subject to attachment in the same manner as money deposited in a chartered bank. R.S.O. 1950, c. 11, s. 1 (2). Moneys
subject to
attachment

2. Subject to the approval of the Lieutenant Governor in Council, the Treasurer may from time to time fix the conditions as to interest and repayments that will govern such deposits but the rate of interest paid shall be not more than 4 per cent per annum. R.S.O. 1950, c. 11, s. 2. Conditions
as to
interest and
payment

3. Moneys borrowed under this Act shall be used for any of the following purposes: for the public service, for works carried on by commissioners on behalf of Ontario, for the covering of any debt of Ontario on open account, for paying any floating indebtedness of Ontario, and for the carrying on of the public works authorized by the Legislature. R.S.O. 1950, c. 11, s. 3. Use of
moneys

4. All expenses incurred in the administration of this Act shall be paid out of and all revenue paid into the Consolidated Revenue Fund. R.S.O. 1950, c. 11, s. 4. Expenses
and
revenues

5. The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 11, s. 5. Regulations

CHAPTER 10

The Agricultural Representatives Act

1. The Lieutenant Governor in Council, upon the recommendation of the Minister of Agriculture, may appoint as agricultural representatives persons who have graduated from a university or agricultural college approved by the Minister with the degree of Bachelor of Science in Agriculture, and every such agricultural representative shall be paid out of moneys appropriated by the Legislature for the purposes of this Act. R.S.O. 1950, c. 12, s. 1.

2. The Minister of Agriculture may appoint assistants to agricultural representatives and may employ such clerical and other assistance as he deems necessary for the purposes of this Act. R.S.O. 1950, c. 12, s. 2.

3. The agricultural representatives shall perform such duties as the Minister of Agriculture, or such officer of the Department of Agriculture as he may designate, may from time to time direct, and any moneys appropriated by the Legislature for the purposes of this Act shall be expended subject to such direction. R.S.O. 1950, c. 12, s. 3.

4.—(1) The county council shall in each year on or before a date to be fixed by the Minister of Agriculture pay into a bank to the credit of the agricultural representative in charge of each office in the county the sum of \$500 for the purpose of assisting in carrying on the work of the agricultural representative, and such sum shall be paid out from time to time by the agricultural representative with the approval of the Minister of Agriculture or of the officer designated as provided in section 3.

(2) An annual statement of the disposition of the sum so set apart together with a statement of the work carried on by each agricultural representative in the county during the preceding year shall be furnished to the county council. R.S.O. 1950, c. 12, s. 4.

CHAPTER 11

The Agricultural Societies Act**1. In this Act,**Interpre-
tation

- (a) "board" means the board of a society;
- (b) "Department" means the Department of Agriculture;
- (c) "headquarters" means the place named as the headquarters in the declaration forming a new society or the place approved or named as the headquarters by the Minister or the place where a society held its last annual exhibition;
- (d) "Minister" means the Minister of Agriculture;
- (e) "society" means an agricultural society organized under this Act or under any predecessor of this Act;
- (f) "Superintendent" means the Superintendent of Agricultural Societies. R.S.O. 1950, c. 13, s. 1.

2. The Minister may decide all matters of doubt or dispute arising in the operation or construction of this Act and his decision is final, subject to an appeal to the Lieutenant Governor in Council. R.S.O. 1950, c. 13, s. 2.

Powers of
Minister

3.—(1) Subject to subsection 2, a society may be organized with headquarters at any place in Ontario.

Organiza-
tion

(2) When it is proposed to organize a society with headquarters within twenty-five miles of an existing society, the officers of the existing society shall be afforded a reasonable opportunity to make recommendations to the Minister regarding the advisability of organizing the proposed society, and the Lieutenant Governor in Council may, upon the recommendation of the Minister, grant permission for the organization of the proposed society. R.S.O. 1950, c. 13, s. 3.

Recommen-
dations of
existing
society**4. The mode of organization shall be as follows:**Mode of
organization:

- 1. A declaration in the form prescribed by the Minister shall be signed by the persons who desire to organize a society, but such persons must be of the age of

declaration

eighteen years or over and must reside within ten miles of the place designated in the declaration as the headquarters of such society.

signatories
to declara-
tion

2. The declaration shall be signed by at least sixty persons, but, in a provisional judicial district or provisional county, the number required to sign the declaration shall be forty.

fees payable
by signa-
tories

3. Every person who signs the declaration shall pay to the person having charge thereof the sum of not less than \$1 at the time of signing the declaration and all such sums of money become the property of the society upon its organization, but, where no society is organized, such sums shall be repaid to the persons entitled thereto.

transmitting
declaration

4. Within one month after the required number of persons have signed the declaration, the declaration shall be forwarded to the Superintendent who may, with the approval of the Minister, authorize any person to call a meeting for the organization of the society.

calling first
meeting

5. Such organization meeting shall be held during the month of January, or at such other time as the Superintendent may authorize, upon at least two weeks notice published in a newspaper having a general circulation in the district surrounding the headquarters of the society and by mailing a notice by prepaid mail to each person who has signed the declaration.

quorum

6. At the organization meeting and at every annual and special meeting of a society, fifteen members shall form a quorum.

election of
officers

7. At the organization meeting there shall be elected a board of twelve directors who shall hold office until the next annual meeting or until their successors are elected, and such directors shall elect a president, a first vice-president and a second vice-president from among themselves.

board

8. The board shall consist of the directors and the president, first vice-president and second vice-president.

auditors

9. At the organization meeting there shall be elected two auditors who shall hold office until the next annual meeting.

10. A report of the organization meeting, certified by the president, the secretary and the organizer, containing a statement of the members and a list of the officers elected and appointed, shall be sent to the Superintendent within one week after the holding of the meeting. R.S.O. 1950, c. 13, s. 4.

5.—(1) Upon receipt of the report mentioned in paragraph 10 of section 4, the Superintendent, with the approval of the Minister, may declare such society to be a society within the meaning of this Act and such society shall bear the name designated in the declaration as the headquarters or such other name as is determined by the members and approved by the Minister.

(2) In case of a dispute as to the name of a society or in a case where in the opinion of the Minister the name of a society prejudicially affects the interest of another society, he may change the name of the society. R.S.O. 1950, c. 13, s. 5.

6.—(1) Every person is entitled to be a member of a society, but no person under eighteen years of age is eligible to vote at any meeting of the society or to hold office in the society. 1956, c. 1, s. 1.

(2) Subject to the by-laws of a society, a firm or an incorporated company may become a member thereof by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall exercise the privileges of membership in the society.

(3) In every society there shall be an annual membership fee of not less than \$1. R.S.O. 1950, c. 13, s. 6 (2, 3).

7.—(1) Upon the recommendation of the Superintendent, the Minister may authorize any society to elect not more than six additional directors and not more than six junior directors not over twenty-six years of age. R.S.O. 1950, c. 13, s. 7 (1); 1956, c. 1, s. 2 (1).

(2) Where a society is authorized to elect more than twelve directors, it may elect all of its directors in rotation, but in that case no director shall be elected for a term of more than three years. 1956, c. 1, s. 2 (2).

(3) Any society may appoint not more than six honorary directors, but no such honorary director is entitled to vote

or take part in meetings of the board. R.S.O. 1950, c. 13, s. 7 (2).

Objects of
society

8.—(1) The objects of a society are to encourage interest, promote improvements in, and advance the standards of, agriculture, domestic industry and rural life by,

- (a) surveying and studying the agricultural and living conditions and by doing such acts as may assist in solving the rural economic and social problems of the district surrounding the headquarters of the society;
- (b) organizing and holding agricultural exhibitions and awarding premiums thereat;
- (c) holding public meetings and demonstrations for the purpose of discussing agricultural problems;
- (d) taking action to eradicate poisonous and noxious insects, weeds, animal parasites and diseases;
- (e) encouraging and promoting reforestation and rural beautification;
- (f) encouraging young people to become interested in and adopt better agricultural and domestic practices and for such purposes to hold competitions. R.S.O. 1950, c. 13, s. 8 (1); 1956, c. 1, s. 3.

When grant
forfeited

(2) A society that expends any of its funds in a manner inconsistent with the objects set out in subsection 1 forfeits all claims to participate in any legislative grant. R.S.O. 1950, c. 13, s. 8 (2).

Annual
meeting

9.—(1) Every society shall hold an annual meeting during the month of January at such time and place as the board determines or, subject to the approval of the Superintendent, at such other time and place as are fixed by the by-laws of the society.

Who may
vote

(2) At any such meeting only those members who were members of the society during the previous year and who have paid the membership fee for the current year are entitled to vote.

Notice of
annual
meeting

(3) At least two weeks notice of every annual meeting shall be given by publication of a notice of the meeting in at least one newspaper having a general circulation in the

municipality in which the headquarters of the society is situate and by mailing notices of the meeting to every member of the society at the address furnished to the secretary.

(4) Where a society fails to hold its annual meeting at the time mentioned in subsection 1, the Minister may appoint a time and place for holding it. R.S.O. 1950, c. 13, s. 9.

10. At every annual meeting,

Procedure at
annual
meeting

- (a) the board shall present a report of the activities and accomplishments of the society since the last annual meeting and a detailed statement of the receipts and expenditures since the last annual meeting and a statement of the assets and liabilities of the society, certified by the auditors, in the form prescribed by the Minister; and
- (b) the officers and other members of the board, including the auditors, shall be elected and appointed in the manner provided by section 4 and any additional, honorary and junior directors shall be elected and appointed. R.S.O. 1950, c. 13, s. 10.

11.—(1) A statement of officers and members and a copy of the report and financial statement in the form prescribed by the Minister and certified by the president, secretary and treasurer, or secretary-treasurer and auditors to be true copies shall be forwarded to the Superintendent within one month after the holding of the annual meeting.

Statement
to be sent
to Superin-
tendent

(2) The officers of every society shall on or before the 1st day of March in every year forward to the Superintendent a return in the form prescribed by the Minister verified by an affidavit of an officer of the society showing the amount expended during the previous year by the society for agricultural purposes. R.S.O. 1950, c. 13, s. 11 (1, 2).

Annual
returns

(3) Where a society exhibits a display of a farm product that is produced on a commercial basis in the locality served by the society or holds a field-crop or other competition and such display or competition is approved by the Superintendent, the officers of the society shall within one month thereafter forward to the Superintendent on a form supplied by the Department a statement showing the particulars of the display or the competition, the number of entries, and the expenditures, including prizes awarded, in connection therewith. 1956, c. 1, s. 4.

Statement
as to com-
petitions

Penalty for
false
statement

(4) Any officer of a society who wilfully makes a false statement in any report or statement required to be furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for not more than thirty days, but that no prosecution under this subsection shall be commenced later than one year after the making of such report or statement. R.S.O. 1950, c. 13, s. 11 (4).

Special
meeting

12. On the petition of thirty members of a society, the secretary, and in his absence, the president or first vice-president, shall call a special general meeting for the transaction of the business mentioned in the petition and the meeting shall be advertised in the manner prescribed by subsection 3 of section 9 and the advertisements shall state the nature of the business to be transacted. R.S.O. 1950, c. 13, s. 12.

Minister
may require
information

13. The Minister may at any time require any society or any officer of a society to furnish such information regarding the society as he deems necessary or desirable and such information shall be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. R.S.O. 1950, c. 13, s. 13.

Dissolution
in certain
instances

14.—(1) In the event of failure to hold the annual meeting of a society in accordance with this Act, or in the event that the number of members of a society on the 1st day of September in any year is less than the number required for organization, the society is not entitled to receive any further legislative grant and shall be deemed to be dissolved, subject always to the direction of the Minister, and the persons comprising the board during the last year of the existence of the society shall be trustees of the assets of the society and shall forthwith deliver to the Superintendent a statement of the assets and liabilities of the society.

Payment of
debts on
dissolution

(2) Subject to the approval of the Minister, the Superintendent may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and to liquidate any of the assets for such purpose.

Disposition
of assets
after debts
paid

(3) Subject to the approval of the Minister, any moneys and other assets remaining after the payment of debts shall be disposed of by the board in such manner as they determine.

Reorganiza-
tion

(4) When a society dissolves or ceases to exist, it may be reorganized *mutatis mutandis* in the manner prescribed by section 4. R.S.O. 1950, c. 13, s. 14.

15. A meeting of the board shall be called by the secretary ^{Meetings of board} upon the direction of the president, or in his absence by the first vice-president, or in the absence of the president and the first vice-president, by the second vice-president, or by any three members of the board, by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting, but a meeting of the board may be held without notice immediately following any annual, regular or special meeting of the society. R.S.O. 1950, c. 13, s. 15.

16.—(1) Subject to the by-laws and regulations of the society, the board has power to act for and on behalf of the ^{Powers of board} society in all matters.

(2) Seven of the members of the board constitute a quorum. Quorum

(3) In the event of a vacancy occurring on the board by the death or resignation of any officer or director or otherwise, ^{Filling vacancies} the remaining members of the board have power to appoint any member of the society to fill the vacancy, but, when three or more vacancies occur at the same time, the Superintendent may order the remaining members of the board to call a special general meeting of the society in the manner prescribed by section 9 and directors shall be elected and appointed at such meeting to fill the vacancies.

(4) The board, from among themselves, may appoint an ^{Executive committee} executive committee of not more than five members to exercise and perform such of its powers and duties as the board prescribes.

(5) The board may appoint a manager to perform such of ^{Manager} its powers and duties as it prescribes.

(6) The board, from among themselves or otherwise, shall ^{Secretary, treasurer} appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee that is appointed by the board and may be appointed managing director acting under the control and with the approval of the board.

(7) No officer of a society, except the secretary, treasurer, ^{Salaries} secretary-treasurer or manager, shall receive any remuneration, but travelling and living expenses may be allowed to any officer while engaged in duties on behalf of the society and the board may fix such remuneration and travelling and living expenses which shall be payable out of the funds of the society. R.S.O. 1950, c. 13, s. 16.

Meetings

17. Subject to section 9, the board may determine what regular or special meetings of the society are to be held during each year. R.S.O. 1950, c. 13, s. 17.

Security by treasurer of society

18.—(1) The treasurer or secretary-treasurer of every society, before entering upon the duties of his office, shall give such security to the society, either by joint or several covenant with one or more sureties, in such form and for such amount as the board deems necessary for the faithful performance of his duties, and especially for the due accounting for and paying over of all moneys that come into his hands.

Duty of board as to security

(2) It is the duty of the board in each year to inquire into the sufficiency of the security given by the treasurer or secretary-treasurer and to report thereon to the society, and, where the same treasurer or secretary-treasurer is re-appointed from year to year, his re-appointment shall not be considered as a new term of office but as a continuation of the former appointment and any security given to the society for the faithful performance of his duties under such re-appointment continues valid as against the parties thereto.

Personal responsibility of officers for loss

(3) If the board neglects to procure and maintain proper and sufficient security, each member thereof is personally responsible for all funds of the society that may have been received by the treasurer. R.S.O. 1950, c. 13, s. 18.

By-laws and regulations

19.—(1) By-laws and regulations of a society may be made, adopted, amended or repealed at any organization, annual or regular meeting of the society or at a special meeting of which notice has been given in the manner provided by subsection 3 of section 9.

Preventing certain performances, huckstering, etc.

(2) The officers of a society may by their rules and regulations prohibit and prevent theatrical, circus or acrobatic performances, exhibitions or shows and may also regulate or prevent the huckstering or trafficking in fruit, goods, wares or merchandise on the exhibition grounds or within three hundred yards thereof on the day of an exhibition, and any person who, after notice of such rules and regulations, contravenes any provisions thereof is liable to be removed by an officer of the society or a constable and is liable to the penalties provided in this Act. R.S.O. 1950, c. 13, s. 19.

Incorporation and power to hold land

20.—(1) Every society is a body corporate with power to acquire and hold land as a site or as an enlargement of an existing site, and the society has and may exercise the like powers as to lands required for the enlargement of an existing site as in the case of lands required for the original site, for

fairs and exhibitions, and, subject to the approval of a meeting of the society called for that purpose, may sell, mortgage, lease or otherwise dispose thereof or of any other property held by the society, but no lands of a society shall be mortgaged without the written approval of the Superintendent.

(2) At least two weeks previous notice of such meeting shall be given by advertisement in at least one newspaper having a general circulation in the area surrounding the headquarters of the society, and at such meeting only those persons are entitled to vote who are members for the current year and who were members for the two previous years. R.S.O. 1950, c. 13, s. 20.

21.—(1) Subject to the approval of the Lieutenant Governor in Council, if the owner of the land selected as a site for fairs and exhibitions, approved of at a meeting of the society called for that purpose, refuses to sell such land or demands therefor a price deemed unreasonable by the board, the owner and the board shall each forthwith appoint an arbitrator, and the arbitrators so chosen shall appoint a third arbitrator, and such arbitrators or a majority of them shall determine the value of the land.

(2) If the directors or the owner of the land neglect or refuse to appoint an arbitrator, the judge of the county or district court of the county or district in which the land is situate may, on the application of the party who has so appointed an arbitrator and on notice to the opposite party, appoint an arbitrator on behalf of the party so neglecting or refusing to appoint an arbitrator and, if the arbitrators appointed as aforesaid fail to agree on, or either of them refuses to appoint, a third arbitrator, the judge of the county or district court of the county or district in which the land is situate may, on the application of one or other of the arbitrators and on notice to the other, appoint a third arbitrator.

(3) The arbitrators so appointed have power to hear and determine all claims or rights of encumbrancers, lessees, tenants or other persons as well as those of the owner of the land required for the purpose of the site upon notice in writing to every such claimant or person.

(4) Upon payment by the board of the amount determined by a majority of the arbitrators to the owner or other persons entitled thereto, the land may be taken and used for the purposes of the society.

Effect of
award

(5) Any award for a site for fairs and exhibitions made and published twice in a newspaper having a general circulation in the area surrounding the headquarters of the society shall, if there be no conveyance, be deemed to vest the title of the site in the society, and the title of the society is good against all persons interested in the land in any manner whatever, and shall be registered in the proper registry or land titles office with the affidavit of the secretary and treasurer or secretary-treasurer of the society verifying the award and the publication thereof.

Expenses of
arbitration

(6) The parties concerned in any such dispute shall pay all the expenses incurred in regard to them according to the award or decision of the arbitrators or a majority of them. R.S.O. 1950, c. 13, s. 21.

Joint
ownership of
lands with
municipality

22. Any township society and town or village municipality that had, before the 4th day of March, 1868, jointly purchased and held any land or building for the purpose of agricultural fairs or exhibitions may continue jointly to hold the land or building, or may sell, mortgage, lease or otherwise dispose thereof, subject to the approval of a meeting of the society as provided in section 20. R.S.O. 1950, c. 13, s. 22.

Provincial
grants

23. On the recommendation of the Minister, every society is entitled to receive a grant out of the moneys appropriated by the Legislature for the purpose on condition,

- (a) that the number of paid-up members for the current year is not less than sixty, except in the case of societies organized in provisional judicial districts, where the number of paid-up members shall not be less than forty;
- (b) that all reports and returns required by this Act have been made to the satisfaction of the Superintendent;
- (c) that the annual meeting has been held as required and the officers elected in accordance with section 10;
- (d) that the objects of the society as prescribed by section 8 have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with such objects; and
- (e) that all other provisions of this Act have been complied with. R.S.O. 1950, c. 13, s. 23, *amended*.

24.—(1) The moneys that are appropriated by the Legislature for the purposes of grants under this Act, except the moneys appropriated under sections 25 and 26, are subject to division among the societies according to the following plan: Division of grant

1. A newly organized society, during the first three years of its existence, shall receive a grant each year equal to \$1 per member up to 300 members.
2. Where a society complies with subsection 3 of section 11 and its statement is satisfactory to the Superintendent, it shall receive a grant equal to one-half the sum expended by the society, as shown by the statement of its expenditures, for the display or competition, but in no case shall the grant be more than \$200 for a display or more than \$75 for a competition. 1956, c. 1, s. 5 (2).
3. The balance of moneys remaining after the other grants in this section have been provided for shall be divided among the societies, other than new societies, in proportion to the amount the societies expended during the three preceding years for agricultural purposes as shown in the statements forwarded to the Superintendent, but,
 - (i) societies in provisional judicial districts shall receive their grants on the basis of double the amount of other societies, and
 - (ii) no society shall in any year receive a grant in excess of \$1,500. R.S.O. 1950, c. 13, s. 24 (1); 1956, c. 1, s. 5 (2); 1959, c. 2, s. 1, *amended*.

(2) If the Superintendent, upon receiving proof on or before the 31st day of October in any year, by the joint affidavit of the president, secretary and treasurer or secretary-treasurer of an agricultural society, that rain or snow fell at the place of holding an exhibition before 3 o'clock in the afternoon on any day during which the exhibition was held or that during the exhibition or within thirty days prior thereto one or more buildings on the exhibition grounds was destroyed by fire or storm, is satisfied that as a consequence of such weather or such destruction the gate receipts were less than the average gate receipts for exhibitions held by the society during three previous normal years, the society is entitled to receive a grant of not more than 90 per cent of the difference between the gate receipts of the current year and the average Allowance where gate receipts reduced

amount of the gate receipts of such three previous years, but no society shall in any year receive a grant in excess of \$500 for any such loss in gate receipts.

Grant where
gate receipts
reduced
owing to wet
weather

(3) In the event of a society that has been organized for only two years suffering loss in gate receipts owing to wet weather, it shall receive a grant equal to 75 per cent of the difference between the gate receipts of the current year and those of the previous year, and, in case of loss of gate receipts from the above cause during the third year of a society's existence, the grant shall be 75 per cent of the difference between the gate receipts of that year and those of the average of the two previous years, but no society shall in any year receive a grant in excess of \$500 for any such loss in gate receipts. R.S.O. 1950, c. 13, s. 24 (2, 3).

Special aid
to certain
exhibitions

25. The money that is appropriated by the Legislature for the purpose of this section shall be divided among The Canadian National Exhibition Association of Toronto, The Central Canada Exhibition Association of Ottawa, and The Western Fair Association of London in proportion to the amount of money expended for agricultural purposes by such associations as mentioned in section 8, provided,

- (a) that not more than \$2,500 shall be paid to any such association;
- (b) that returns have been made to the Superintendent similar to those prescribed by section 11 in a manner satisfactory to the Superintendent;
- (c) that no other grants have been received under this Act; and
- (d) that the Minister has approved such grant,

but no such society shall in any year receive a grant in excess of 50 per cent of the moneys appropriated by the Legislature for the purpose of this section for such year. R.S.O. 1950, c. 13, s. 25, *revised*.

Annual
grants on
account of
capital
expenditure

26. The Minister may make annual grants on account of capital expenditure to any society or class of society in such amounts and on such terms and conditions as the regulations prescribe out of such moneys as are appropriated therefor by the Legislature. 1954, c. 2, s. 1.

Grants from
municipal
councils

27.—(1) Any municipal council may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality, or partly within the limits of

such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act, but the total amount or value of the money or land granted or loaned by any municipality to an agricultural society under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town, and \$1,000 in the case of a village. R.S.O. 1950, c. 13, s. 27 (1).

(2) If the grant is a loan of money to enable the society to acquire land, the municipality may hold the land so acquired or may take a mortgage thereon as security for the amount of the grant until the amount of the grant is repaid to the municipality. R.S.O. 1950, c. 13, s. 27 (2), *amended*.
Security for loans from municipalities

(3) Any such municipality owning land or buildings for public purposes may make agreements on such terms and for such periods as it deems expedient with any company formed under chapter 196 of the Revised Statutes of Ontario, 1897, or under any enactment that may be substituted therefor, or with any agricultural society for the use of such land or buildings, or either of them, or for the privilege of erecting upon such land, subject to such terms as may be agreed upon, such buildings as it may require for agricultural and industrial shows, and to give the company the power of renting such land and buildings, when owned by the company, to any agricultural society formed under this Act for the purposes of the annual show of the society, and to grant to such company or society the power to collect during such show, or at other times, as may be agreed, from any person wishing to go into or upon any such land or buildings, or for any privilege thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal that may be taken thereon, such entrance fee or other charge as the company or society deems necessary or expedient.
Agreements as to use of buildings

(4) Any municipality may pass by-laws providing for the erection of buildings upon parks, fair grounds or other property belonging to the municipality for the joint purposes of the municipality and of any agricultural society, or other body, or trustees for any club or society, upon such agricultural society, other body, or trustees undertaking to contribute to the cost of such buildings, and in such case the municipality may grant leases for a term not exceeding twenty-one years to such agricultural society, other body, or trustees, for the use of such buildings at such time as to the council seems proper, and upon such terms as may be arranged with the council, and the powers hereby granted may be exercised in
By-laws for common use of buildings on municipal property

respect of any building erected since the 1st day of January, 1919. R.S.O. 1950, c. 13, s. 27 (3, 4).

Exemption
from
taxation

28. The property of an agricultural society is exempt from taxation, other than taxes for local improvements, when in actual occupation by the society or by its tenants if the rent is applied solely for the purposes of the society. R.S.O. 1950, c. 13, s. 28.

Regulations

29. The Lieutenant Governor in Council may make regulations,

- (a) providing the terms and conditions upon which societies may hold races or trials of speed for horses and the amount of money that societies may award as prizes therefor;
- (b) subject to section 23, prescribing the terms and conditions upon which societies may receive grants out of the moneys appropriated by the Legislature;
- (c) limiting the exhibitors of any society to persons residing within defined areas;
- (d) prescribing the powers and duties of the officers of societies;
- (e) classifying societies that are societies within the meaning of this Act and designating the class to which each society belongs;
- (f) prescribing the terms and conditions on which grants may be made to any society or class of society on account of capital expenditure and prescribing the amounts of such grants or the minimum or maximum amounts of such grants;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 13, s. 29; 1954, c. 2, s. 2, *part*; 1956, c. 1, s. 6.

Appointment
of
constables

30.—(1) Any justice of the peace having jurisdiction in a city, town, village or township in which a fair or exhibition is held, shall, on the request of the president or executive committee of a society, appoint as many constables as may be required.

(2) Such constables shall be paid by the society and it is ^{Duty of} their duty to protect the property of the society within the ^{constables} exhibition grounds and to eject all persons who may be improperly within the grounds or behave in a disorderly manner or violate any of the rules or regulations of the society.

(3) Every person who wilfully hinders or obstructs the ^{Interfering} officers or servants of a society or a constable appointed ^{with} under this section in the execution of their duties, or who gains ^{officers,} admission to the grounds contrary to the rules of the society, ^{penalty} is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20 to be paid to the society for its use and benefit. R.S.O. 1950, c. 13, s. 30.

31. The Minister may appoint a person to inspect the ^{Inspection} books and accounts of any society receiving legislative grants under this Act, and may empower such person to summon witnesses and enforce the production of documents before him and to take evidence upon oath in regard to the matters under inspection, and every officer of a society shall, when required, submit the books and accounts thereof to such inspection. R.S.O. 1950, c. 13, s. 31.

32. Where the board of a society has reason to believe ^{Fraud or} that any member or other person exhibiting any farm product, ^{misrepresentation by} animal, fowl or other goods at an exhibition of the society ^{an exhibitor} has committed a fraud or made any misrepresentation in respect of any such farm product, animal, fowl or other goods, the board may withhold payment or delivery of any premium or prize to such person until such person proves to the satisfaction of the board that no fraud or misrepresentation has in fact been committed or made. R.S.O. 1950, c. 13, s. 32.

33. Every person who contravenes any of the provisions ^{Offence} of this Act or the regulations is guilty of an offence and on summary conviction, where no other penalty is provided, is liable to a fine of not more than \$50. R.S.O. 1950, c. 13, s. 33.

CHAPTER 12

The Air Pollution Control Act

1.—(1) In this Act,

Interpre-
tation

- (a) “air contaminant” means a solid, liquid or gas or combination of any of them in the outdoor atmosphere that contributes to air pollution;
- (b) “air pollution” means the presence in the outdoor atmosphere of an air contaminant in quantities that may cause discomfort to or endanger the health or safety of persons, or that may cause injury or damage to property or to plant or animal life;
- (c) “density” means the shade or opacity of an air contaminant at the point of emission to the outdoor atmosphere;
- (d) “Minister” means the Minister of Health;
- (e) “municipality” means a county, city, town, village or township, and includes The Municipality of Metropolitan Toronto, but does not include the area municipalities as defined in *The Municipality of Metropolitan Toronto Act*; ^{R.S.O. 1960, c. 260}
- (f) “municipal officer” means an officer of a municipality who is appointed to administer and enforce any air pollution control by-law;
- (g) “occupant” means the person in occupation or having the charge, management or control of any premises, whether on his own account or as the agent of any person;
- (h) “owner” means the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person or who would so receive the same if such land or premises were let;

- (i) "provincial officer" means an officer of the Department of Health who is designated by the Minister as a provincial officer for the purposes of this Act. 1958, c. 2, s. 1 (1), cls. (a-f); 1959, c. 3, s. 1 (1).

Density

(2) The density of an air contaminant that is approximately black shall be determined by means of a chart commonly known as the Ringelmann Chart, a Micro-Ringelmann Chart, or by a comparable chart having black dots or lines upon a white ground, or by a glass comparator, so as to produce:

No. 1 density—approximately 20% black with approximately 80% of the ground white.

No. 2 density—approximately 40% black with approximately 60% of the ground white.

No. 3 density—approximately 60% black with approximately 40% of the ground white.

No. 4 density—approximately 80% black with approximately 20% of the ground white.

No. 5 density—approximately 100% black. 1958, c. 2, s. 1 (2); 1959, c. 3, s. 1 (2).

Idem

(3) The density of an air contaminant to which subsection 2 does not apply shall be determined by its opacity by means of visual inspection thereof and shall be related to the density of an air contaminant under subsection 2 that has approximately the same degree of opacity. 1958, c. 2, s. 1 (3).

Powers of Minister

2. The Minister may,

- (a) engage the services of consultants for the purposes of this Act;
- (b) make grants to universities and other organizations for research in the field of air pollution or for the training of persons in that field;
- (c) assist municipal officials in the preparation of air pollution control by-laws, in the development of an air pollution control programme and in the training of local staffs for this purpose;
- (d) furnish advice in the field of air pollution;

- (e) investigate or make arrangements for the investigation of air pollution problems;
- (f) recommend testing procedures for determining the amount of air contaminants. 1958, c. 2, s. 2.

3.—(1) The council of any municipality may pass by-laws ^{Municipal} _{by-laws} for prohibiting or regulating the emission from any source of air contaminants or any type or class thereof. 1958, c. 2, s. 3 (1).

(2) Without limiting the generality of subsection 1, the ^{Idem} council of any municipality may pass by-laws,

- (a) subject to clauses *c* and *d*, for prohibiting the emission from any source of any air contaminant having a density greater than No. 2 density;
- (b) subject to clauses *c* and *d*, for limiting to a period or periods totalling not more than four minutes in any one half-hour the emission from any source of any air contaminant that has a density greater than No. 1 density and not greater than No. 2 density;
- (c) subject to clause *d*, for limiting to a period or periods totalling not more than three minutes in any one quarter-hour during the lighting of new fires in heating equipment the emission from any source of products of combustion that have a density greater than No. 1 density and not greater than No. 3 density;
- (d) for permitting, in the event of a breakdown in equipment, the emission of air contaminants beyond the limits set forth in clause *b* or *c* for such period as may, in the opinion of a municipal officer, be required to repair the equipment;
- (e) for prohibiting,
 - (i) any person to operate, or to cause or permit to be operated, an incinerator for the disposal of scrap, waste material, rubbish, garbage or any combination thereof in such a way as to cause air pollution,
 - (ii) any person to set, feed or maintain, or to cause to be set, fed or maintained, any open

fire for the disposal of any material in such a way as to cause air pollution,

- (iii) any person to operate, or to cause or permit to be operated, an internal combustion engine in such a way as to cause air pollution; 1958, c. 2, s. 3 (2), cls. (a-e).
- (f) for requiring any owner or occupant of premises to furnish such information as a municipal officer may require for the purposes of administering or enforcing the by-law; 1958, c. 2, s. 3 (2), cl. (f); 1959, c. 3, s. 2 (1).
- (g) for regulating the erection, construction, reconstruction, installation, alteration, repair, maintenance, operation and use of any equipment, apparatus, device, mechanism or structure from which an air contaminant may be emitted;
- (h) for requiring that plans and specifications for the erection, construction, reconstruction, installation, alteration or repair of any equipment, apparatus, device, mechanism or structure from which an air contaminant may be emitted and such information as a municipal officer may require with respect thereto be filed with a municipal officer, and for requiring approval of such plans and specifications by a municipal officer and that without such approval no such erection, construction, reconstruction, installation, alteration or repair shall be commenced, and for requiring that the work so approved be commenced and proceeded with within one year from the date of such approval and that otherwise such approval shall be void, and for inspecting the work when completed and for issuing a certificate that the work complies with the plans and specifications filed and with the by-law, and for providing that without such certificate no such equipment, apparatus, device, mechanism or structure shall be operated or used, and for charging fees for such approval of plans and specifications, and for such certificates; 1959, c. 3, s. 2 (2).
- (i) for appointing one or more municipal officers to administer and enforce any air pollution control by-law and for authorizing any such officer to enter in or upon any premises at any reasonable time and make such examinations, tests and inquiries as he

deems necessary or advisable for the purposes of the by-law, and for requiring any owner or occupant of premises, his employees and agents to furnish all means in his or their power that may be required by the officer under this clause, and for authorizing any such officer to require such installations of or alterations in any equipment, apparatus, device, mechanism or structure or such changes in the manner of operating them as may be necessary to prevent or lessen the emission of an air contaminant within such time as he requires; 1959, c. 3, s. 2 (3).

(j) for authorizing a municipal officer to permit deviations from the requirements of any air pollution control by-law;

(k) for imposing fines recoverable under *The Summary R.S.O. 1960, Convictions Act*, for a first offence, of not more than ^{c. 387} \$100, and for a second or subsequent offence, of not more than \$300, upon every person who contravenes or fails to comply with any by-law passed under this section or any order of a municipal officer, and for providing that each day that a person contravenes or fails to comply with any such by-law or order constitutes a separate offence. 1958, c. 2, s. 3 (2), cls. (i, j).

(3) A proposed by-law under subsection 1 or 2 shall be submitted to the Minister for his review and advice and shall not be passed until thirty days have elapsed after it has been ^{Submission of proposed by-law to Minister} so submitted. 1958, c. 2, s. 3 (3).

(4) Subsection 1, with respect to products of combustion, ^{Exemptions} and clauses *a*, *b*, *c*, *d*, *g* and *h* of subsection 2 do not apply to heating equipment used or intended to be used for the heating of a one-, two- or three-family dwelling or for the heating of less than 35,000 cubic feet of space in a commercial establishment.

(5) Clause *h* of subsection 2 does not apply to internal ^{Idem} combustion engines or to routine maintenance work, minor alterations or emergency repairs that do not increase the emission of air contaminants. 1959, c. 3, s. 2 (4).

(6) No by-law passed under subsection 1 or 2 applies to ^{Application} products of combustion until ninety days after it or a synopsis of it has been published in a newspaper having general circulation in the municipality.

Idem

(7) No by-law passed under subsection 1 or 2 applies to air contaminants, other than products of combustion, until two years after it or a synopsis of it has been published in a newspaper having general circulation in the municipality.

Suspension
of local
by-laws

(8) As soon as an air pollution control by-law of a county becomes operative, all such by-laws of the local municipalities forming part of the county for municipal purposes become inoperative and remain inoperative so long as the county by-law remains operative.

Application
to sulphur
fumes
R.S.O. 1960,
c. 86

(9) No by-law passed or regulation made under this Act applies to sulphur fumes arising from the operations designated in *The Damage by Fumes Arbitration Act*. 1958, c. 2, s. 3 (6-9).

Appeal

4.—(1) Where a municipality passes an air pollution control by-law and appoints a municipal officer with power to exercise the powers mentioned in clause *i* of subsection 2 of section 3, the council shall by by-law establish an appeal board composed of not fewer than three and not more than five members, a majority of whom shall not be members of a municipal council, to hear and determine appeals from orders of municipal officers and provide for such appeals, prescribe the time within which such appeals may be made and the procedure on such appeals.

Further
appeal

(2) Any person who deems himself aggrieved by a decision of an appeal board may appeal to a judge of the county or district court of the county or district in which the municipality is situate within thirty days after the receipt of a copy of the decision by the owner or occupant of the premises with respect to which the decision was made and such appeal shall be a hearing *de novo* and the judge may allow or dismiss the appeal or vary the decision of the appeal board and the decision of the judge is final and not subject to any further appeal. 1959, c. 3, s. 3.

Joint
administra-
tion

5. Any two or more municipalities may enter into agreement to provide for joint administration and enforcement of their respective air pollution control by-laws and to provide for the sharing of the cost thereof. 1958, c. 2, s. 5.

Unorganized
territory

6.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, make regulations applicable in territory without municipal organization with respect to any of the matters mentioned in section 3.

Idem

(2) Any such regulation may be general in its application or may be restricted in its application to any designated area or class of premises. 1958, c. 2, s. 6.

7.—(1) A provincial officer may enter in or upon any premises in a municipality or in territory without municipal organization at any reasonable time and make such examinations, tests and inquiries as may be necessary or advisable for the purposes of this Act or of the regulations made under this Act. Power of provincial officers

(2) Every owner or occupant of premises shall furnish such information as a provincial officer requires for the purposes of this Act or of the regulations made under this Act. Information
1959, c. 3, s. 4 (1).

(3) A provincial officer may in territory without municipal organization require such installations of or alterations in any equipment, apparatus, device, mechanism or structure or such changes in the manner of operating them as may be necessary to prevent or lessen the emission of an air contaminant. In territory without municipal organization

(4) The owner or occupant of any premises, his employees and agents shall furnish all means in his or their power that may be required by a provincial officer to carry out his duties under this section. Owners to co-operate
1958, c. 2, s. 7 (2, 3).

(5) Any person who deems himself aggrieved by an order of a provincial officer may appeal to a judge of the district court of the district in which the premises to which the order relates are located within thirty days after the receipt of a copy of the order by the owner or occupant of the premises with respect to which the order was made and the judge may allow or dismiss the appeal or vary the order and the decision of the judge is final and not subject to any further appeal. Appeal
1959, c. 3, s. 4 (2), *amended*.

8. Where a person complains that it is not technically feasible to comply with an order of a municipal or provincial officer or with a decision of an appeal board within the time required by the order or decision, he may appeal to the Minister who may reject the appeal or extend the time for compliance with such order or decision. Appeal to Minister for extension of time
1958, c. 2, s. 8.

9.—(1) Every person who contravenes or fails to comply with any provision of this Act or any regulation made under this Act or any order made by a provincial officer is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than \$100 and, for a second or subsequent offence, to a fine of not more than \$300. Offences

Idem

(2) Each day that a person contravenes or fails to comply with a provision of this Act or a regulation or an order made by a provincial officer constitutes a separate offence. 1958, c. 2, s. 9.

CHAPTER 13

The Aliens' Real Property Act

1. Every alien has the same capacity to take by gift, conveyance, descent, devise, or otherwise, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in Ontario as a natural born or a naturalized subject of Her Majesty. R.S.O. 1950, c. 15, s. 1.

2. The real estate in Ontario of an alien dying intestate descends and may be transmitted as if it had been the real estate of a natural born or a naturalized subject of Her Majesty. R.S.O. 1950, c. 15, s. 2.

Aliens' ,
powers as
to real
estate

Descent of
real estate
of aliens

CHAPTER 14

The Anatomy Act

1. In this Act, "school" means the Faculty of Medicine of the University of Toronto, of Queen's University, of the University of Western Ontario or of the University of Ottawa, or the Canadian Memorial Chiropractic College, and includes any other institution that the Lieutenant Governor in Council declares to be a school for the purposes of this Act. R.S.O. 1950, c. 16, s. 1, *amended*. Interpre-
tation

2. The Lieutenant Governor in Council may appoint a general inspector of anatomy for Ontario and local inspectors for such places as is deemed advisable, and may make regulations defining the duties of the general inspector and imposing duties on the local inspectors in addition to the duties imposed by this Act and otherwise for carrying out this Act, and may fix the fees to be received by the general inspector and local inspectors for services performed under this Act and under such regulations. R.S.O. 1950, c. 16, s. 2. Appoint-
ment of
inspectors
of anatomy

3.—(1) A body,

(a) of a person that is found publicly exposed or sent to a morgue upon which a coroner after having viewed it deems an inquest necessary; or Disposal
of certain
bodies for
study of
anatomy

(b) of a person who immediately before death was supported in and by a public institution,

shall be placed immediately under the control of the local inspector of anatomy.

(2) Unless the body is claimed by,

Where not
claimed

(a) a relative or *bona fide* friend; or

(b) a county councillor, in the case of the body of a person who immediately before death was supported in and by a county home for the aged,

within twenty-four hours after being found or sent to a public morgue or within twenty-four hours after the death where

the death took place in a public institution, the body shall be delivered by the local inspector to a person qualified to receive unclaimed bodies under section 5.

Magistrate's
order

(3) Where doubt exists as to the right of a person mentioned in clause *a* of subsection 2 to claim a body, he may apply to a magistrate, or, where no magistrate is available, to a justice of the peace having jurisdiction in the locality, for an order (Form 1) and the magistrate or justice of the peace, upon being satisfied that the applicant is a relative or *bona fide* friend, may make the order. R.S.O. 1950, c. 16, s. 3, *amended*.

Duty to
bury

4.—(1) It is the duty of the relative or friend to whom a body is delivered under section 3 to cause it to be decently interred or he may, upon payment to them of \$5, require the authorities under whose care the body was to inter it.

County's
liability for
expense

(2) Where the body of a person who dies in a county home for the aged is delivered to a county councillor under section 3, it shall be decently interred and the county shall bear the expense of burial to the extent of \$30. R.S.O. 1950, c. 16, s. 4.

To whom
unclaimed
bodies shall
be delivered

5. The persons qualified to receive unclaimed bodies under this Act are the teachers of anatomy or surgery in a school, and, if there is a school in the locality where there is a body to be delivered to persons so qualified, such school has the first claim to the body. R.S.O. 1950, c. 16, s. 5.

Body de-
livered to
school may
be claimed
by friends

6.—(1) Any school obtaining a body shall keep and preserve it for not less than fourteen days, and in the event of a relative or *bona fide* friend claiming it within that time the school shall deliver the body to such relative or friend upon receipt of the reasonable costs and charges for preserving and keeping it, not to exceed \$10.

Records

(2) Every school shall keep such records as are prescribed by the regulations, and they shall at all times be open to inspection by the general inspector or by a local inspector. R.S.O. 1950, c. 16, s. 6.

Duties of
local
inspector

7. Every local inspector of anatomy shall,

(a) keep a register showing the name, age, sex, birth-place and religious denomination of every person whose unclaimed body has been received by him, and the name of the school to which the body was delivered, with the date of delivery;

- (b) keep a register of the schools qualified to receive and desirous of receiving bodies for the instruction of students;
- (c) subject to section 5, distribute all bodies, in rotation, to such schools in proportion to the number of persons actually engaged in the study of human anatomy in each school, as shown by their official registers, which he shall be allowed to inspect;
- (d) keep his registers open for the inspection of any registered medical practitioner who may desire to inspect them;
- (e) enter in the morgue register, for the purpose of identification, a description of every body received by him, and of the clothing and effects found thereon, and the name of the school to which the body was delivered; and
- (f) furnish to the general inspector the name of the deceased and of the school to which the body was delivered. R.S.O. 1950, c. 16, s. 7.

8. Every local inspector shall, without delay, give notice of his appointment to all persons mentioned in sections 9 to 12. R.S.O. 1950, c. 16, s. 8. Notice of appointment

9. Every coroner, whether he does or does not hold an inquest on a body found publicly exposed, to which his attention has been called, and which is not claimed in accordance with section 3, shall give notice to the local inspector or, if there is none, he shall cause the body to be interred at the expense of the municipality in which it was found. R.S.O. 1950, c. 16, s. 9. Duty of coroner

10. Where the body is placed in a public morgue, the person in charge of the morgue shall forthwith give notice thereof to the local inspector. R.S.O. 1950, c. 16, s. 10. Duty of person in charge of morgue

11. The head of a municipality in which a dead body to which this Act applies is found and of which he has notice shall cause notice thereof to be given within twenty-four hours to the local inspector. R.S.O. 1950, c. 16, s. 11. Duty of head of municipality

12.—(1) The superintendent of every public institution to which this Act applies shall, upon the death of an inmate of the institution, give notice thereof within twenty-four hours to the local inspector. Duty of superintendent of public institution

Register to
be kept by
superin-
tendent

(2) Every such superintendent shall keep a register showing the name, age, sex, birthplace and religious denomination of each person whose body is disposed of under this Act, and the school to which the body is delivered, and shall file all documents furnished by persons claiming bodies, and such register and documents shall be open for inspection.

Body to be
delivered to
school on
order only

(3) No superintendent shall deliver a body to a school except on the written order of the local inspector. R.S.O. 1950, c. 16, s. 12.

Schools
availing
themselves
of this Act
to give
security

13. A school desiring to avail itself of the benefits of this Act shall give a bond to the general inspector in the sum of \$80, with two sufficient sureties to his satisfaction in the sum of \$40 each, for the decent interment of the bodies after they have served the purposes required, and thereupon the general inspector shall deliver to such school a written authority to open a practical anatomy room entitled to the benefits of this Act. R.S.O. 1950, c. 16, s. 13.

Penalty for
neglect of
duty

14. Every person who neglects to discharge the duties imposed upon him by this Act or any regulation made thereunder, or who contravenes any provision thereof, is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 16, s. 14.

Removal of
bodies from
Ontario

15. No person shall send or take a dead body out of Ontario for surgical or practical anatomical purposes, and every person who contravenes this section is guilty of an offence and on summary conviction is liable to a fine of \$100. R.S.O. 1950, c. 16, s. 15.

Shipment
of body

16. No person shall accept for shipment or ship a dead body from any place within Ontario to any place outside Ontario unless a certificate of a duly qualified medical practitioner has been obtained certifying that the cause of death has been definitely ascertained and that there exists no other cause for inquiry or examination. R.S.O. 1950, c. 16, s. 16.

Burial of
unclaimed
bodies

17. Subject to this Act, any unclaimed dead body found within the limits of a city, town, village or township shall be interred at the expense of the corporation thereof, but the corporation may recover such expense from the estate of the deceased or from any person whose duty it was to inter the dead body. R.S.O. 1950, c. 16, s. 17.

FORM 1

(Section 3 (3))

The Anatomy Act

To whom it may concern:

Whereas *A.B.* of (*here state the name, residence and occupation of the person by whom or on whose behalf the order is applied for*) has satisfied me that he is a relative (*or bona fide friend*) of *C.D.*, deceased, and is entitled to have his body delivered to him for the purpose of interment.

I hereby authorize and order every person and authority having the present custody or control of the body forthwith upon presentation of this order to deliver it to the said *A.B.* for interment.

Witness my hand as Magistrate (*or Justice of the Peace*) of and for
.....(*as the case may be*)
this.....day of....., 19....

R.S.O. 1950, c. 16, Form 1.

CHAPTER 15

The Andrew Mercer Reformatory Act

1. In this Act,

Interpre-
tation

- (a) "Deputy Minister" means the Deputy Minister of Reform Institutions;
- (b) "inspector" means an inspector appointed under *The R.S.O. 1960, Penal and Reform Institutions Inspection Act*; c. 291
- (c) "Minister" means the Minister of Reform Institutions;
- (d) "reformatory" means The Andrew Mercer Ontario Reformatory for Females;
- (e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 17, s. 1; 1960, c. 2, s. 1

2. The Andrew Mercer Ontario Reformatory for Females Objects of reformatory is for the reception, detention and employment of such female offenders as are mentioned in this Act. R.S.O. 1950, c. 17, s. 2.

3. The Lieutenant Governor in Council may appoint a Appointment of officers superintendent, an accountant, a surgeon and such other officers as he deems necessary for the reformatory. R.S.O. 1950, c. 17, s. 3.

4. The Lieutenant Governor in Council may make regula- Regulations tions for the management and discipline of the reformatory and for prescribing the duties and conduct of the superintendent and officers and servants employed therein, which may include as part of the work thereof the visiting from time to time in Ontario of paroled and discharged inmates, with a view to continuing and prolonging the work of reformation through friendly and voluntary assistance and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. R.S.O. 1950, c. 17, s. 4.

Suspension
of officers

5.—(1) The Deputy Minister may summarily suspend any officer for misconduct, of which the Minister shall be at once notified, and the suspension shall continue until the pleasure of the Lieutenant Governor is known, and an inspector may, until such pleasure is intimated to him, cause any such officer so suspended to be removed beyond the precincts of the reformatory. R.S.O. 1950, c. 17, s. 5 (1); 1960, c. 2, s. 2 (1).

Idem

(2) It is the duty of the Deputy Minister to recommend the removal of any officer whom he deems incapable, inefficient or negligent in the execution of his duty or whose presence in the reformatory he deems injurious to the interests thereof, and the pay of every officer so suspended shall cease during the period of the suspension. R.S.O. 1950, c. 17, s. 5; 1960, c. 2, s. 2 (2).

Transfer
from jail
to refor-
matory

R.S.O. 1960,
c. 291

6. A female detained in a common jail under sentence of imprisonment for an offence against any Act of the Legislature may, by the direction and warrant of an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act*, be conveyed by a female bailiff appointed for that purpose from such common jail to the reformatory for the unexpired portion of the term of imprisonment to which she was sentenced or committed, and such female shall thereupon be imprisoned in the reformatory for the residue of the term and shall be subject to all the regulations of the reformatory. R.S.O. 1950, c. 17, s. 7; 1960, c. 2, s. 4.

Female
convict
may be
sentenced
to refor-
matory

7.—(1) The court before which any female is convicted under any Act of the Legislature of an offence punishable by imprisonment may sentence such female to imprisonment for an indefinite period not exceeding two years in the reformatory instead of the common jail.

Female
bailiff

(2) The female shall be conveyed to the reformatory by a female bailiff. R.S.O. 1950, c. 17, s. 8.

Re transfer
to jail may
be directed

8.—(1) An officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* may by warrant direct the removal from the reformatory back to the common jail of any female under sentence of imprisonment for an offence against any Act of the Legislature, and the female shall thereupon be conveyed to the common jail by a female bailiff. R.S.O. 1950, c. 17, s. 9 (1); 1960, c. 2, s. 5.

Officer to
deliver up
prisoners
for removal

(2) The superintendent of the reformatory, or the keeper of a common jail, having the custody of a female ordered to be removed shall, when required so to do, deliver her up

to the female bailiff who produces the warrant, together with a copy certified by the superintendent or jailer of the sentence and date of conviction as given to him on reception of the female into his custody. R.S.O. 1950, c. 17, s. 9 (2).

9. A female bailiff may convey to the reformatory a female sentenced or liable to be imprisoned therein and deliver her to the superintendent without any other warrant than a copy of the minute of the sentence taken from the records of the court before which she was tried and certified by the convicting justice or the clerk of the court, and the superintendent shall receive her into the reformatory and detain her there, subject to all the rules, regulations and discipline thereof, until the expiration of her sentence or until she is otherwise discharged in due course of law. R.S.O. 1950, c. 17, s. 10.

Copy of
sentence
sufficient
warrant

10. The female bailiff shall give a receipt to the superintendent or jailer for the prisoner, and shall thereupon without delay convey and deliver her with the certified copy into the custody of the superintendent of the reformatory or of the jailer of the jail mentioned in the warrant, who shall give to such bailiff a receipt in writing for her, and the prisoner shall be kept in custody in such reformatory or jail until the expiration of her sentence, or until she is otherwise discharged in due course of law, unless she is in the meantime again removed under competent authority. R.S.O. 1950, c. 17, s. 11.

Officer to
give and
take receipt
for
prisoner

11. The superintendent is the chief executive officer of the reformatory and as such has, under the direction of the Deputy Minister, the execution, control and management of its affairs, subject to the regulations, and the superintendent is responsible for the faithful and efficient administration of the offices of every department of the reformatory. R.S.O. 1950, c. 17, s. 12; 1960, c. 2, s. 6, *amended*.

Powers and
duties of
superin-
tendent

12. The accountant shall give security to the satisfaction of the Minister and for such amount as the Minister directs for the faithful performance of the duties of the office. R.S.O. 1950, c. 17, s. 13.

Security by
accountant

13.—(1) No officer or employee of the Department of Reform Institutions shall, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods or provisions for the use of the reformatory, or be concerned, directly or indirectly, in furnishing or supplying the same or in any contract relating thereto. R.S.O. 1950, c. 17, s. 14 (1); 1960, c. 2, s. 7.

Officers not
to be
interested
in any
contract

Offence

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of \$1,000. R.S.O. 1950, c. 17, s. 14 (2), *amended*.

Officers not to engage in trade, etc., in the reformatory

14. No officer or employee of the Department of Reform Institutions shall buy from or sell to any inmate in the reformatory anything whatever, or take or receive to his own use or for the use of any other person any fee, gratuity or emolument from any inmate or visitor or any other person, or employ any inmate in working for him. R.S.O. 1950, c. 17, s. 15; 1960, c. 2, s. 8.

Prohibition of liquors and drugs
R.S.O. 1960, c. 217

15.—(1) Except under the regulations, no morphia, cocaine or other narcotic drug, and no intoxicating liquors within the meaning of *The Liquor Control Act* shall on any pretence whatever be brought into the reformatory for the use of any officer or employee or person in the institution or for the use of any inmate therein.

Offence

(2) Every person, other than an officer of the reformatory acting under the regulations, who gives any intoxicating liquors, morphia, cocaine or other narcotic drug, and every officer, employee or other person who gives or conveys tobacco in any form to any inmate is guilty of an offence and on summary conviction is liable to a fine of \$40. R.S.O. 1950, c. 17, s. 16.

Beneficial labour

16. The reformatory shall be furnished with all requisite means for enforcing the performance of beneficial labour by the inmates thereof. R.S.O. 1950, c. 17, s. 17.

Reformatory, what to include

17. All the land enclosed and used in connection with the reformatory building shall be deemed to be part of the reformatory. R.S.O. 1950, c. 17, s. 18.

Inmates not to be discharged on Sunday

18. When the term of imprisonment of an inmate expires on a Sunday, she shall be discharged on the previous Saturday unless she desires to remain until the following Monday. R.S.O. 1950, c. 17, s. 19.

Detention of inmate if labouring under certain diseases

19. No inmate shall be discharged at the termination of her sentence or transferred from the reformatory to a jail if she has syphilitic or other venereal disease, or any contagious or infectious disease, or is suffering from any acute or dangerous illness, but she shall remain in the reformatory until the surgeon certifies to the Deputy Minister that she has recovered from the disease or illness, and any inmate so remaining shall be under the same discipline and control as if her sentence were still unexpired. R.S.O. 1950, c. 17, s. 20; 1960, c. 2, s. 9.

CHAPTER 16

The Apportionment Act

1. In this Act,

Interpre-
tation

- (a) "annuities" includes salaries and pensions;
- (b) "dividends" includes all payments made by the name of dividend, bonus or otherwise out of revenues of trading or other public companies divisible between all or any of the members, whether such payments are usually made or declared at any fixed times or otherwise, but does not include payments in the nature of a return or reimbursement of capital;
- (c) "rent" includes rent-service, rent-charge and rent-seck and all periodical payments or renderings in lieu or in the nature of rent. R.S.O. 1950, c. 18, s. 1.

2. Dividends shall, for the purposes of this Act, be deemed to have accrued by equal daily increment during and within the period for or in respect of which the payment of the same is declared or expressed to be made. R.S.O. 1950, c. 18, s. 2.

Dividends,
how deemed
to accrue

3. All rents, annuities, dividends, and other periodical payments in the nature of income, whether reserved or made payable under an instrument in writing or otherwise, shall, like interest on money lent, be considered as accruing from day to day, and are apportionable in respect of time accordingly. R.S.O. 1950, c. 18, s. 3.

Rents, etc.,
how to
accrue and
be appor-
tionable

4. The apportioned part of any such rent, annuity, dividend or other periodical payment is payable or recoverable, in the case of a continuing rent, annuity, dividend or other such payment, when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before, and in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if the same had not so determined, and not before. R.S.O. 1950, c. 18, s. 4.

When ap-
portioned,
part of rent,
etc., to be
payable

5.—(1) All persons and their respective heirs, executors, administrators and assigns, and also the executors, administrators and assigns, respectively, of persons whose interests

Recovering
apportioned
parts

determine with their own deaths, have such or the same remedies for recovering such apportioned parts when payable, allowing proportionate parts of all just allowances, as they respectively would have had for recovering such entire portions if entitled thereto.

As to rents reserved in certain cases

(2) The persons liable to pay rents reserved out of or charged on lands or other hereditaments, and the same lands or other hereditaments, shall not be resorted to for any such apportioned part forming part of an entire or continuing rent specifically, but the entire or continuing rent, including such apportioned part, shall be recovered and received by the heir or other person, who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part is recoverable by action from such heir or other person by the executors or other persons entitled under this Act to the same. R.S.O. 1950, c. 18, s. 5.

Policies of assurance, stipulation against apportionment

6. Nothing in this Act renders apportionable any annual sums made payable in policies of assurance of any description, or extends to any case in which it is expressly stipulated that no apportionment is to take place. R.S.O. 1950, c. 18, s. 6.

CHAPTER 17

The Apprenticeship Act**1.** In this Act,Interpre-
tation

- (a) “apprentice” means,
- (i) in any of the designated trades specified in or added to Schedule A, a minor at least sixteen years of age who enters into a contract of service whereby he is to receive from or through his employer in whole or in part training and instruction in such designated trade, and
 - (ii) in any of the designated trades specified in or added to Schedule B, a person at least sixteen years of age who enters into a contract of service whereby he is to receive from or through his employer in whole or in part training and instruction in such designated trade;
- (b) “Board” means The Industry and Labour Board established under *The Department of Labour Act*; R.S.O. 1960, c. 97
- (c) “designated trade” means a trade specified in or added to Schedule A or B or any branch of any such trade;
- (d) “Director” means the Director of Apprenticeship;
- (e) “employer” means a person, firm or corporation, or municipal, provincial or other public authority employing mechanics, helpers, labourers, apprentices or other employees in connection with any of the designated trades or work incidental to these trades;
- (f) “Minister” means the Minister of Labour;
- (g) “probationary period” means the time during which a person eligible to be an apprentice in a designated trade is by section 7 permitted to be employed in

the trade other than under a contract of apprenticeship;

(h) "regulations" means the regulations made under this Act;

(i) "trade" includes any industry, trade, craft or business and any branch of any industry, trade, craft or business;

(j) "trade school" means a school, business, institution or establishment that trains or professes to train persons for designated trades, other than a school or college that is subject to the jurisdiction of the Department of Education. R.S.O. 1950, c. 19, s. 1.

Application
of Act

2. This Act applies in respect of every designated trade. R.S.O. 1950, c. 19, s. 2.

Petition to
have trade
included in
Schedule
A or B

3.—(1) Upon receiving a petition signed by at least twenty-five employers or employees in a trade or by not less than 20 per cent of such employers or employees, where the total number in the Province does not exceed 125, asking to have such trade added to Schedule A or B as the petition sets forth, the Board shall require the Director to inquire into the matter of the petition and he shall make such investigation as is deemed necessary to determine whether or not such trade shall be added to Schedule A or B.

Adding to
Schedule
A or B

(2) The Lieutenant Governor in Council may from time to time add to Schedule A or B such other trades as may be deemed expedient. R.S.O. 1950, c. 19, s. 3, *amended*.

Appoint-
ment of
Director
and staff

4.—(1) The Lieutenant Governor in Council may appoint a Director of Apprenticeship for the purpose of carrying out this Act and may also appoint such other officers, directors or clerks as may be deemed expedient.

Annual
report

(2) The Board shall submit an annual report to the Minister. R.S.O. 1950, c. 19, s. 4.

Duties of
Director

5. Subject to the regulations, it is the duty of the Director,

(a) to keep a register of every contract entered into by an apprentice;

(b) to make such examination and inquiry as is necessary to ascertain whether this Act is being complied with by both employer and apprentice;

- (c) to rouse and promote interest in the adoption of apprenticeship in industries;
- (d) to assist in establishing a permanent system of training of apprentices in any industry;
- (e) to provide such information as is required by the Board;
- (f) to collaborate with educational authorities in the training of apprentices; and
- (g) generally to perform such other duties and exercise such powers as are prescribed by the Minister to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 19, s. 5.

6. No person shall enter into a contract of apprenticeship in a designated trade except in accordance with this Act. R.S.O. 1950, c. 19, s. 6. Contracts to be in accordance with Act

7. No person who is eligible to be an apprentice in a designated trade and has not completed the period of apprenticeship prescribed for him shall be employed in such trade for a period or periods totalling more than three months except under a contract of apprenticeship, but the Director may in writing authorize the further employment of any such person for a period not exceeding one month by an employer by whom he has not been previously employed. R.S.O. 1950, c. 19, s. 7. Apprentices to be under contract

8.—(1) Every contract of apprenticeship shall be approved by the Board and shall be registered with the Board. Form and registration of contracts

(2) A contract of apprenticeship shall not be entered into for a period of less than two years. R.S.O. 1950, c. 19, s. 8. Term of contract

9. Where a person has been employed under a contract of apprenticeship in a designated trade prior to the date on which the trade was added to Schedule A or B, such contract shall be registered within three months after such date at the office of the Director, but such contract shall in other respects be regarded as if this Act had not been passed. R.S.O. 1950, c. 19, s. 9. Person employed under contract

10. Where a person is employed as an apprentice in a designated trade, but not under a contract, this Act in relation to any unexpired period of such apprenticeship applies as from the expiry of three months after the date on which the Person employed without contract

trade was added to Schedule A or B, and the period during which any such person was employed as an apprentice may, with the approval of the Board, be allowed as part of the time required to complete the full period of apprenticeship. R.S.O. 1950, c. 19, s. 10.

Signatures
to contract

11. Every contract of apprenticeship shall be signed,

(a) by the person to be apprenticed; and

(b) if the person to be apprenticed is a minor,

(i) by the father of the minor, or

(ii) if the father is dead or legally incapable of giving consent or has abandoned his family, by the mother of the minor, or

(iii) if both the father and mother of the minor are dead or legally incapable of giving consent or have abandoned their family, by the guardian of the minor, or

(iv) if there is no parent capable of signing and no guardian, by the judge of the county or district court of the county or district in which the employer carries on business; and

(c) by the employer. R.S.O. 1950, c. 19, s. 11, *amended*.

Registration
of contracts

12. The registration of a contract of apprenticeship shall not be regarded as a guarantee that all the provisions of the contract are valid or that any provision thereof is not in conflict with this Act. R.S.O. 1950, c. 19, s. 12.

Termination
of contract

13. Subject to the approval of the Board, a contract of apprenticeship may be terminated by mutual agreement of all parties thereto, or it may be cancelled by the Director if good and sufficient reason is adduced by the employer or apprentice or his guardian, and the fact of termination or cancellation shall be endorsed by the Director upon the copy of the contract registered in his office. R.S.O. 1950, c. 19, s. 13.

Transfer of
contract

14. Where the terms of a contract of apprenticeship cannot be fulfilled, the Director may arrange for the transfer of the apprentice to another employer, but such transfer shall not be regarded as completely effected until it has been approved by the Board and registered. R.S.O. 1950, c. 19, s. 14.

15.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) defining any designated trade;
- (b) prescribing the qualifications of persons who may become apprentices in any designated trade, the nature and number of educational classes to be attended, the course of training to be provided by the employer, and the period of time in each year to be completed by an apprentice in learning his trade;
- (c) prescribing the form of contract of apprenticeship, assignment of contract, notice of transfer, and such other forms as may be required;
- (d) providing for the registration of contracts of apprenticeship, assignments of contracts, and notices of transfer of contracts;
- (e) prescribing the hours of labour and rates of wages for apprentices;
- (f) providing for the issue of certificates of apprenticeship to every apprentice who serves the prescribed term of apprenticeship and completes the school training to the satisfaction of the Board, and for the issue of duplicate certificates of apprenticeship;
- (g) providing for examinations for certificates of qualification, for the issue, annually or otherwise, of certificates of qualification, for their cancellation, suspension and renewal, and for the issue of duplicate certificates;
- (h) requiring all persons engaged in any designated trade, other than registered apprentices and persons employed during a probationary period, to hold a current certificate of qualification, and prohibiting the employment in any designated trade of persons who have not complied with this requirement;
- (i) providing for the issue without examination of certificates of qualification, upon payment of the prescribed fee, to holders of certificates of apprenticeship;
- (j) prescribing the terms and conditions upon which certificates of qualification may be issued to persons engaged in a designated trade;

- (k) providing for the registration of employers and self-employed persons engaged in a designated trade;
- (l) prescribing the form of certificates of qualification, applications for certificates of qualification and renewals thereof, registration of employers and self-employed persons engaged in a designated trade, and such other forms as may be required;
- (m) prescribing and requiring the payment of a fee for,
 - (i) examination for certificates of qualification,
 - (ii) the issue of certificates of qualification and renewals thereof,
 - (iii) duplicate certificates of qualification,
 - (iv) duplicate certificates of apprenticeship,
 - (v) registration of employers and self-employed persons, and
 - (vi) licences for trade-schools;
- (n) prescribing the purposes for which the moneys collected in registration fees may be used;
- (o) requiring the holder of a certificate of qualification to keep it posted conspicuously in the shop where he is engaged in a designated trade, or, where not possible, to carry it upon his person;
- (p) prescribing the terms and conditions upon which a licence may be issued to a trade-school and generally prescribing the method of training to be followed in the schools and the manner in which the schools are to be operated, and for the cancellation, suspension and renewal of such licences;
- (q) fixing the rate of assessment of employers and employees in each designated trade and governing the manner of making the assessment;
- (r) prescribing the constitution, powers and duties of provincial advisory committees and local apprenticeship committees and the qualifications of the members thereof and providing for the calling of meetings of such committees and the procedure to be followed at such meetings and providing for the books, records

and forms to be used and the returns to be made by such committees;

(s) prescribing the classes of persons in any designated trade to whom this Act and the regulations shall apply;

(t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The Board has authority to hold such conferences and make such inquiries as are deemed necessary to determine the opinions and wishes of employers and employees in the designated trades regarding suggested changes in and amendments to the Act and regulations that may arise from time to time. Board authorized to hold conferences and inquiries

(3) A regulation made under clause *h* of subsection 1 does not apply to a person who within two years of the coming into force of the regulation satisfies the provincial advisory committee that at the date of the coming into force of such regulation he had been engaged in the trade for a period equal to the apprenticeship period. R.S.O. 1950, c. 19, s. 15. Exemptions

16.—(1) The Board shall appoint a provincial advisory committee for each designated trade or group of trades. Advisory committee

(2) Every provincial advisory committee shall consist of not fewer than five members who shall be appointed annually. Number of members

(3) On every provincial advisory committee there shall be an equal number of employers and employees and an official or employee of the Department of Labour. Personnel of committee

(4) The Lieutenant Governor in Council may direct payment, out of such sums as are appropriated therefor by the Legislature, of the travelling expenses of the members of a provincial advisory committee and a per diem allowance for the time spent by each of the members thereof in attending meetings of the committee, and of any expenses properly incurred by such committee in carrying on its duties. Allowance and travelling expenses

(5) Subject to the approval of the Minister, the Board may appoint examiners to assist in the conduct of examinations prescribed for any designated trade, and such examiners, upon the direction of the Lieutenant Governor in Council, may be paid their travelling expenses and a per diem allowance for their services out of such sums as are appropriated therefor by the Legislature. R.S.O. 1950, c. 19, s. 16. Examiners, appointment by board

Committee
may make
regulations

17.—(1) Subject to the approval of the Board and of the Lieutenant Governor in Council, each provincial advisory committee may make regulations with respect to the particular trade relating to all matters regarding which the Board may make regulations, so long as such regulations are not inconsistent with any regulations made by the Board.

Regulations
as to age of
apprentices
and length
of service

(2) Without limiting the generality of subsection 1 and subject to the approval of the Lieutenant Governor in Council, each provincial advisory committee has exclusive power to make regulations with respect to the particular trade relating to,

(a) the qualifications respecting the age of apprentices;

(b) the apprenticeship period; and

(c) the number of apprentices who may be apprenticed to each employer.

Appointment
of local
committees

(3) Subject to the approval of the Board, each provincial advisory committee may appoint local apprenticeship committees for defined areas of the Province, and it is the duty of such local apprenticeship committees to advise and assist the advisory committee on all matters relating to apprenticeship in the particular trade within the defined area. R.S.O. 1950, c. 19, s. 17.

Amendment
of
regulations

18.—(1) No amendment shall be made to any regulations affecting any of the matters set out in subsection 2 of section 17, unless a written notice has been given to representative organizations of employers and of employees engaged in the trade affected by such amendment, or, where no organization of employers or of employees exists, to at least ten representative employers or employees, as the case may be, engaged in such trade and located in various parts of the Province, and every such notice shall state a time and place at which representatives of the employers and employees engaged in such trade may meet the provincial advisory committee for the purpose of discussing and considering such amendment.

Notice of
proposed
amend-
ments

(2) Subject to subsection 1, no amendment shall be made to any of the regulations, whether made by the Board or by a provincial advisory committee, unless a written notice has been given to representative organizations of employers and of employees engaged in the trades affected by such amendment, or, where no organization of employers or of employees exists, to at least ten representative employers or employees, as the case may be, engaged in each of such trades and located

in various parts of the Province, and every such notice shall state a time and place at which representatives of employers and employees engaged in such trades may meet the Board and the advisory committee of the trades affected for the purpose of discussing and considering such amendment.

(3) Where a suggested amendment is accompanied by a written request that it be considered, signed by not fewer than ten employers or employees engaged in the trade affected by it, the Board shall provide an opportunity for the employers and employees engaged in the trade affected, or their representatives, to confer with the Board and advisory committee for such trade, but where the suggested amendment relates to one of the matters set out in subsection 2 of section 17, the advisory committee of the trade affected shall provide an opportunity for the employers and employees in such trade, or their representatives, to confer with the advisory committee. R.S.O. 1950, c. 19, s. 18.

19. Such courses of part or full instruction in a school, collegiate or other educational institution as are by regulation under this Act prescribed for the training of an apprentice shall conform to *The Department of Education Act* and the regulations made thereunder. R.S.O. 1950, c. 19, s. 19.

20. Every person who,

Offences

- (a) enters into a contract of apprenticeship in a designated trade except in accordance with this Act; or
- (b) except as expressly provided by this Act, employs a minor in a designated trade; or
- (c) contravenes any of the provisions of this Act, or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1950, c. 19, s. 20.

21.—(1) To defray the cost of maintaining a system of apprenticeship in a designated trade or group of trades, subject to the approval of the provincial advisory committee or committees, the Board may assess employers and employees in the designated trade or group of trades at a rate fixed by the regulations, and may require such employers and employees to pay to the Board, at such times as the Board fixes, the amounts due under the assessment.

Penalty for
default in
payment of
assessment

(2) If an assessment or any part thereof is not paid within the specified time, the employer is liable to pay as penalty for such default, 5 per cent of the amount for which he is in default, and if a further month or more elapses before payment is made, an additional charge of 1 per cent of the amount remaining unpaid shall be made for each month or fraction of a month during which the default continues.

Filing of
certificate of
assessment

(3) Where payment of an assessment or any part thereof is overdue, the Board may issue a certificate stating that the assessment was made, the amount remaining unpaid, the person or corporation by whom it was payable, and such certificate or a copy of it certified by a member of the Board to be a true copy may be filed with the clerk of any county or district court, or where the amount remaining unpaid does not exceed \$200, with the clerk of any division court, and when so filed, becomes an order of the court and may be enforced as a judgment of the court against such person or corporation for the amount mentioned in the certificate. R.S.O. 1950, c. 19, s. 21.

Trade
school
licences

22.—(1) Subject to the regulations, the Board may issue to any person a licence to carry on the business of a trade school.

Offence

(2) Every person who carries on the business of a trade school without such licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$100.

Trade
school
branches

(3) Where the business of a trade school is carried on by means of offices, branches or agencies in different local municipalities, a separate licence shall be required for each of such offices, branches or agencies. R.S.O. 1950, c. 19, s. 22.

Members of
the forces

23. Where a person has served as a member of any of the forces of Her Majesty or any ally thereof and is undertaking a course of training under a plan of rehabilitation approved by the Board, the Board may exempt such person from the operation of such provisions of this Act and the regulations as are deemed necessary. R.S.O. 1950, c. 19, s. 23.

SCHEDULE A

DESIGNATED TRADES

- | | |
|----------------------------|--|
| 1. Bricklayer. | 7. Plasterer. |
| 2. Carpenter. | 8. Plumber. |
| 3. Electrician. | 9. Sheet Metal Worker. |
| 4. Mason. | 10. Steamfitter. |
| 5. Motor Vehicle Repairer. | 11. Worker in servicing and installing |
| 6. Painter and Decorator. | air-conditioning or refrigerating |
| | equipment. |

R.S.O. 1950, c. 19, Sched. A.

SCHEDULE B

DESIGNATED TRADES

- | | |
|------------|-----------------|
| 1. Barber. | 2. Hairdresser. |
|------------|-----------------|

R.S.O. 1950, c. 19, Sched. B.

CHAPTER 18

The Arbitrations Act

1. In this Act,

Interpre-
tation

(a) “court” means the Supreme Court;

(b) “judge” means a judge of the Supreme Court;

(c) “rules of court” means the rules of the Supreme Court made under *The Judicature Act*;

R.S.O. 1960,
c. 197

(d) “submission” means a written agreement to submit present or future differences to arbitration, whether or not an arbitrator is named therein. R.S.O. 1950, c. 20, s. 1.

2. This Act applies to an arbitration to which Her Majesty Crown is a party. R.S.O. 1950, c. 20, s. 2.

3. This Act applies to every arbitration under any Act passed before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorized or recognized by that Act. R.S.O. 1950, c. 20, s. 3.

References
under
statutory
powers

4. A submission, unless a contrary intention is expressed therein, is irrevocable, except by leave of the court, and has the same effect as if it had been made an order of the court. R.S.O. 1950, c. 20, s. 4.

Irrevoca-
bility of
submission

5. A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in Schedule A, so far as they are applicable to the reference. R.S.O. 1950, c. 20, s. 5.

What sub-
missions
include

6. Where a submission provides that the reference is to an official referee, any official referee to whom application is made shall hear and determine the matters agreed to be referred. R.S.O. 1950, c. 20, s. 6.

Official
referee to
act when
applied to

7. If a party to a submission, or a person claiming through or under him, commences any legal proceeding in any court against any other party to the submission, or any person

Staying legal
proceedings
taken after
submission

claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceeding may at any time after appearance and before delivering any pleading or taking any other step in the proceeding apply to that court to stay the proceeding and a judge of that court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceeding was commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceeding. R.S.O. 1950, c. 20, s. 7, *amended*.

Appointment by court

8.—(1) In any of the following cases,

- (a) where a submission provides that the reference is to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator; or
- (b) where an arbitrator, an umpire or a third arbitrator is to be appointed by a person, and such person does not make the appointment; or
- (c) unless the submission otherwise provides, where an arbitrator, an umpire or a third arbitrator refuses to act or is incapable of acting or dies, and the vacancy is not supplied by the person having the right to fill the vacancy,

a party may serve the other party or the arbitrators, or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator, umpire or third arbitrator. R.S.O. 1950, c. 20, s. 8 (1).

When court may appoint

(2) If the appointment is not made within seven clear days after the service of the notice, a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. R.S.O. 1950, c. 20, s. 8 (2), *amended*.

Powers of arbitrators

9. An arbitrator or umpire acting under a submission has, unless the submission expresses a contrary intention, power,

- (a) to administer oaths to the parties and witnesses;

(b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court;

(c) to correct in an award any clerical mistake or error arising from any accidental slip or omission. R.S.O. 1950, c. 20, s. 9.

10. The time for making an award may from time to time be enlarged by a judge whether or not the time for making the award has expired. R.S.O. 1950, c. 20, s. 10, *amended*. Enlarging time for making award

11.—(1) The court may remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire. Remitting for reconsideration

(2) The arbitrators or umpire shall, unless the order otherwise directs, make the award within three months after the date of the order. R.S.O. 1950, c. 20, s. 11. When award to be made

12.—(1) Where an arbitrator or umpire has misconducted himself, the court may remove him. Removal of arbitrator

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured, the court may set the award aside. R.S.O. 1950, c. 20, s. 12. Setting aside award

13. An award may, by leave of a judge, be enforced in the same manner as a judgment or order to the same effect. R.S.O. 1950, c. 20, s. 13, *amended*. Enforcing award

14. A party to a submission may sue out of the court a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document that he would not be compellable to produce on the trial of an action. R.S.O. 1950, c. 20, s. 14. Subpoenaing witnesses

15.—(1) Where a party to a submission desires to procure for use upon the reference the evidence of a person to be taken *de bene esse* or to be taken out of Ontario, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order may be made in an action. Commission to examine witnesses

(2) *The Judicature Act* and the rules of court apply to such order or commission and to the proceedings thereon and the evidence taken thereunder. R.S.O. 1950, c. 20, s. 15. Application of R.S.O. 1960, c. 197 and rules

Where
submission
provides for
appeal

16.—(1) Where it is agreed by the terms of the submission that there may be an appeal from the award, an appeal lies to a judge in court and from him to the Court of Appeal. R.S.O. 1950, c. 20, s. 16 (1), *amended*.

Procedure
by party
taking up
award

(2) Where by the agreement of the parties or by the provisions of any statute there is an appeal from an award, the party taking up the award shall file it with the registrar of the court and shall serve a copy of it and a notice of its filing upon the opposite party.

Notice of
appeal

(3) Notice of appeal may be served within fourteen days returnable within thirty days after service of the copy of the award and notice of filing.

Taking
evidence in
writing

(4) In all cases in which there is a right of appeal, the evidence of the witnesses shall be taken down in longhand and be signed by the witnesses, or be taken in shorthand.

Evidence
to be
transcribed
only on
on appeal

(5) It is not necessary that evidence taken in shorthand be transcribed unless an appeal is taken.

Exhibits,
transmission
to registrar

(6) Upon the request of the party appealing, the exhibits shall be transmitted by the arbitrator to the office of the registrar of the court for the purpose of the appeal.

Oath of
stenographer

(7) A stenographer employed to take evidence in shorthand shall be sworn to take down and transcribe the evidence faithfully and shall certify to the accuracy of all copies supplied.

Statement of
proceeding
on view or
special
knowledge

(8) Where the arbitrators proceed wholly or partly on a view or any knowledge or skill possessed by themselves or any of them, they shall also put in writing a statement thereof sufficiently full to enable a judgment to be formed of the weight that should be attached thereto.

Requiring
further
report from
arbitrator

(9) The court may require explanations or reasons from the arbitrator and may remit the matter or any part thereof to him for further consideration.

Powers of
court as to
extension
of time

(10) The court may extend the time limited by this section either before or after its expiry or may dispense with compliance with the requirements of this section. R.S.O. 1950, c. 20, s. 16 (2-10).

Interpre-
tation

17. In sections 18 to 24,

(a) “arbitrator” and “arbitrators” include an umpire and a referee in the nature of an arbitrator;

- (b) "award" includes umpirage and a certificate in the nature of an award. R.S.O. 1950, c. 20, s. 17.

18. The parties to a submission may agree, by writing signed by them or by making such agreement a part of the submission, to pay to the arbitrator or to the arbitrators, if more than one, such fees for each day's attendance, or such gross sum for taking upon themselves the burden of the reference and making the award, as the parties see fit, and no arbitrator shall take or receive from either party to a submission any greater fee than that agreed upon, or in default of agreement than that provided by Schedule B, and the receipt of any greater fee may be regarded as misconduct justifying the setting aside of the award. R.S.O. 1950, c. 20, s. 18.

19. No greater fees shall be taxed to a person called as a witness before an arbitrator than would be taxed to him in an action in the court. R.S.O. 1950, c. 20, s. 19.

20. Where at a meeting of arbitrators of which due notice has been given no proceedings are taken in consequence of the absence of a party, or of a postponement at the request of a party, the arbitrators shall make up an account of the costs of the meeting, including the proper charges for their own attendance and that of any witnesses and of the counsel or solicitor of the party present and not desiring the postponement, and unless under the special circumstances of the case they think that it would be unjust so to do, they shall charge the amount thereof, or of the disbursements, against the party in default or at whose request the postponement is made, and the last mentioned party shall pay the same to the other party, whatever may be the event of the reference, and the arbitrators shall, in the award, make any direction necessary for that purpose, and the amount so charged may be set off against, and deducted from, any amount awarded in his favour. R.S.O. 1950, c. 20, s. 20.

21.—(1) A party to an arbitration is entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by one of the taxing officers of the court at Toronto upon an appointment that may be given by the taxing officer for that purpose on the filing of an affidavit setting forth the facts.

(2) A taxation of the fees of the arbitrators may be had upon an appointment given at the instance of the arbitrators or any of them upon a like affidavit. R.S.O. 1950, c. 20, s. 21.

Discretion
of taxing
officer

22.—(1) The taxing officer shall in no case, except as provided in section 18, tax higher fees than are mentioned in Schedule B to the arbitrators but, upon reasonable grounds, he may reduce the fees to any amount below the maximum mentioned in the Schedule, but not below the minimum, having regard always to the length of the arbitration, the value of the matter in dispute, and the difficulty of the questions to be decided, and the fees to be allowed to solicitors and counsel shall be as nearly as may be similar to the fees allowed upon a reference in the court or the county court, the scale to be determined by the taxing officer having regard to the value of the matter in dispute, but he shall not tax more than one counsel fee to either party.

Costs of
award

(2) The taxing officer may tax a reasonable sum for preparing the award.

Appeal from
taxation

(3) An appeal may be had from such taxation in the same manner as from a taxing officer's certificate of taxation in an action.

Power to
reduce fees

(4) The taxing officer and the judge upon appeal from taxation have the power to reduce fees payable to the arbitrator and to counsel and solicitors where the arbitration has been unduly prolonged. R.S.O. 1950, c. 20, s. 22.

Penalty for
arbitrator
attempting
to exact
excessive
fees

23. An arbitrator who, after having entered upon the reference, refuses or delays after the expiration of one month from the publication of the award to deliver it until a larger sum is paid to him for his fees than is permitted by this Act, or who receives for his award or for his fees as arbitrator any such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained it, treble the excess so demanded or received by the arbitrator contrary to this Act, to be recovered by action in a court of competent jurisdiction. R.S.O. 1950, c. 20, s. 23.

Arbitrator
to have
action
for fees

24. Where an award has been made, the arbitrator may maintain an action for his fees after they have been taxed, and in the absence of an express agreement to the contrary, he may maintain such action against all the parties to the reference, jointly or severally. R.S.O. 1950, c. 20, s. 24.

Order to
sheriff to
produce
prisoner as
witness

25. A judge may order the sheriff, jailer or other officer having the custody of a prisoner to produce him for examination before an arbitrator or an umpire. R.S.O. 1950, c. 20, s. 25.

26. An arbitrator or an umpire may at any stage of the proceedings and shall, if so directed by the court, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference, and an arbitrator or umpire appointed under the authority of a statute or by a court shall, when so directed by the court, state the reasons for his decision and his findings of fact and of law. R.S.O. 1950, c. 20, s. 26, *amended*.

Case stated
for opinion
of court

27. An order made under this Act may be made on such terms as to costs or otherwise as the authority making the order thinks just. R.S.O. 1950, c. 20, s. 27.

Costs in
discretion
of court

28. An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book, paper or document as an exhibit, as hereinbefore provided, may allow a copy thereof or of such part thereof as he deems material to be substituted as an exhibit in the place of the original book, paper or document. R.S.O. 1950, c. 20, s. 28.

Dispensing
with filing
original
exhibits

29. Upon an appeal from or motion to set aside an award, any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion, any original book, paper or document in his possession that has been used as an exhibit or given in evidence upon the reference and that has not been filed with the depositions. R.S.O. 1950, c. 20, s. 29.

Production
of exhibits
on appeal or
motion to
set aside
award

30.—(1) Except by leave of the court, an application to set aside an award, otherwise than by way of appeal, shall not be made after six weeks from the publication of the award. R.S.O. 1950, c. 20, s. 30 (1), *amended*.

Time for
moving to
set aside

(2) Such leave may be granted before or after the expiration of the six weeks.

Time within
which leave
may be
granted

(3) In the computation of time for appealing against, or applying to set aside, an award, the vacations shall not be reckoned. R.S.O. 1950, c. 20, s. 30 (2, 3).

Vacations
not
reckoned

(4) When an award is set aside, the court setting it aside may give directions as to the costs of the reference and award. R.S.O. 1950, c. 20, s. 30 (4), *amended*.

Costs of
reference and
award when
award set
aside

31. Subject to the approval of the Lieutenant Governor in Council, rules of court for the better carrying out of the purposes of this Act and regulating the practice thereunder may be made by the Rules Committee. R.S.O. 1950, c. 20, s. 31.

Power to
make rules

Appoint-
ment of
valuator, etc.

32.—(1) A judge has power to appoint a valuator, valuer or appraiser in cases in which it is provided by a written agreement that a valuation or appraisal shall be made by a valuator, valuer or appraiser. R.S.O. 1950, c. 20, s. 32 (1).

Exercise
of power

(2) The power may be exercised in the like cases and the proceedings shall be the same as provided by section 8, except that the court does not have power, without the consent of the parties, to appoint a valuator, valuer or appraiser in the place of the one who is named in the agreement and who refuses to act, is incapable of acting or dies. R.S.O. 1950, c. 20, s. 32 (2), *amended*.

SCHEDULE A

(Section 5)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS

1. If no other mode of reference is provided, the reference is to a single arbitrator.

2. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

3. If an arbitrator or umpire or third arbitrator refuses to act or is incapable of acting or dies, the party or parties, or the arbitrators by whom he was appointed, may appoint an arbitrator, umpire or third arbitrator, as the case may be, in his stead, and this power may be exercised from time to time as vacancies occur.

4. The submission is not revoked by the death of the parties or either of them.

5. The award shall be delivered to any of the parties requiring it, and the personal representatives of a party deceased may require delivery of the award.

6. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later date to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

7. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

8. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

9. The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be

examined by the arbitrators or umpire, on oath in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings, documents and things within their possession or power respectively that may be required or called for, and do all other things during the proceedings on the reference that the arbitrators or umpire require.

- 10. The witnesses on the reference shall be examined on oath.
- 11. The award to be made by the arbitrators or by a majority of them or by the umpire is final and binding on all the parties and the persons claiming under them respectively.
- 12. The costs of the reference and award are in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid.

R.S.O. 1950, c. 20, Sched. A.

SCHEDULE B

(Sections 18 and 22)

FEES CHARGEABLE BY ARBITRATORS

1. For every meeting where the reference is not proceeded with, but a postponement is made at the request of any party,	
not less than.....	\$ 8
nor more than.....	16
2. For every day's sittings, to consist of not less than six hours,	
not less than.....	20
nor more than.....	40
3. Where a day's sittings consists of more than six hours,	
for each additional hour, not less than.....	4
nor more than.....	6
4. For every sittings not extended to six hours (fractional parts of hours being excluded) where the reference is actually proceeded with, for each hour occupied,	
not less than.....	4
nor more than.....	6

R.S.O. 1950, c. 20, Sched. B.

CHAPTER 19

The Archaeological and Historic Sites Protection Act

1. In this Act,

Interpre-
tation

- (a) “archaeological object” means an object of archaeological significance found at an archaeological site;
- (b) “archaeological site” means land of archaeological significance that is designated as such by the Minister;
- (c) “historical object” means an object of historical significance found at an historic site;
- (d) “historic site” means land of historical significance that is designated as such by the Minister;
- (e) “Minister” means the member of the Executive council charged for the time being with the administration of this Act;
- (f) “permit” means a valid and subsisting permit issued under this Act. 1953, c. 4, s. 1.

2. The Minister may designate any land as an archaeological site or as an historic site. 1953, c. 4, s. 2.

Designation
of sites

3. No person shall excavate or alter an archaeological site or an historic site or remove any archaeological or historical object therefrom unless he is the holder of a permit. 1953, c. 4, s. 3.

Permit
holders
only may
excavate,
etc.

4.—(1) Upon application made to him in writing, the Minister may issue a permit to any person to excavate or alter an archaeological site and remove archaeological objects therefrom, or to excavate or alter an historic site and remove historical objects therefrom.

Minister
may issue
permits

(2) The Minister may limit a permit as to time and location and may impose such other terms and conditions as he considers proper.

Terms and
conditions

Cancellation (3) The Minister may cancel a permit at any time. 1953, c. 4, s. 4.

Consent of owner **5.** A permit holder shall not excavate or alter an archaeological or an historic site or remove any archaeological or historical object therefrom without the consent of the owner. 1953, c. 4, s. 5.

Reports **6.** Within a reasonable time after the close of each season's field work, every permit holder shall furnish, in duplicate, to the Minister a report containing full details of the work done, including details of any stratification or other chronological evidence encountered, and such other information as the Minister requires. 1953, c. 4, s. 6.

Disposal of objects **7.—**(1) Any archaeological or historical object that is taken by a person who is not a permit holder or by a permit holder in contravention of his permit or this Act may be seized by a person authorized so to do by the Minister and turned over to and deposited in such public institution as the Minister designates.

Idem (2) The Minister may direct that any archaeological or historical object taken under the authority of a permit be turned over to and deposited in such public institution as he designates. 1953, c. 4, s. 7.

Offence **8.** Every person who contravenes any provision of this Act or a permit or a direction of the Minister under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1953, c. 4, s. 8.

Advisory board **9.—**(1) The Minister may establish an advisory board, consisting of not more than nine members, to advise him upon all matters to which this Act refers. 1953, c. 4, s. 9 (1); 1956, c. 2, s. 1.

Remuneration and expenses (2) The members of the advisory board shall receive such remuneration for their services as the Lieutenant Governor in Council determines and shall be paid proper travelling and other expenses incurred in the work of the board. 1959, c. 5, s. 1.

CHAPTER 20

The Architects Act

1. The Ontario Association of Architects, hereinafter called the "Association", is continued as a body corporate. R.S.O. 1950, c. 21, s. 1. The Ontario Association of Architects continued

2. The objects of the Association are to promote and increase the knowledge, skill and proficiency of its members in all things relating to the profession of architecture and to advance and maintain a high standard in the practice of architecture in Ontario, and to those ends to establish and maintain or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of, architecture and the allied arts and sciences. R.S.O. 1950, c. 21, s. 2. Objects

3. The Association may acquire by purchase, lease or otherwise and take and possess for its purposes, but for no other purposes, and after acquiring the same, may sell, mortgage, lease or dispose of any real estate. R.S.O. 1950, c. 21, s. 3. Power to hold real estate

4. The property and assets of the Association and the Architects' Registration Board shall, from and after the 1st day of July, 1935, become the property of the Association and be vested in it, and all liabilities of the Association and Board as of such date shall become liabilities of the Association and shall be paid and satisfied by it. R.S.O. 1950, c. 21, s. 4. Assets and liabilities of Association and Architects' Registration Board consolidated

5. The head office of the Association is at the City of Toronto. R.S.O. 1950, c. 21, s. 5. Head office

6. All persons whose names were in good standing as of the 30th day of June, 1935, on the Register of the Architects' Registration Board and all persons thereafter admitted to membership in the Association are members of the Association and shall continue as such until such membership lapses or is suspended or cancelled. R.S.O. 1950, c. 21, s. 6. Membership

7.—(1) Membership in the Association shall be granted by the Registration Board of the Association on application to it if the applicant, Qualifications for membership

(a) is of good character;

- (b) is not less than twenty-one years of age;
- (c) has passed the prescribed examination of the Registration Board or is exempted therefrom pursuant to its regulations;
- (d) is domiciled in Ontario;
- (e) is a British subject, or has taken the oath of allegiance and declared his intention of becoming a British subject. R.S.O. 1950, c. 21, s. 7.

Corporations
excluded

(2) No corporation shall be granted membership in the Association or be licensed to practise architecture in Ontario. 1953, c. 5, s. 1.

Non-resident
architects
desiring to
practise

8. Membership in the Association or temporary licences to practice in Ontario may be granted, upon such terms and subject to such conditions as the Registration Board by regulation provides, to any person who is a British subject domiciled outside of Ontario but within the Commonwealth who is a member of an association or society of architects within the Commonwealth recognized by the Board. R.S.O. 1950, c. 21, s. 8.

Council of
Association

9.—(1) There shall be a council of the Association herein-after called the "Council" which shall consist of six members who shall be elected and hold office as hereinbefore provided and where the immediate past president of the Association has not been re-elected to Council, he shall also be a member thereof until he ceases to be the immediate past president, and Council shall have power by by-law to increase the number of its members.

Electoral
districts

(2) At least one member of Council shall be elected from each of five electoral districts to be known as the "Windsor", "Hamilton", "Toronto", "London" and "Ottawa" districts, and the five districts shall be composed as set forth in the Schedule, but Council may by by-law alter the composition of any of the electoral districts and in any by-law increasing the number of members of Council may provide for the creation of one or more new electoral districts and for the election of at least one member of Council from each new district.

Inclusion of
city or town

(3) The electoral districts respectively include any city or separated town situate in any of the counties or territorial districts forming part of such electoral districts.

(4) Members of Council shall hold office for three years ^{Term of office} from the 1st day of January following the date of their election.

(5) Any member of Council may resign by letter addressed ^{Filling vacancies} to the president of the Association, and every vacancy caused by the death, resignation or incapacity to act of a member shall be filled by a member of the Association appointed by a majority vote of the members of Council still in office, if a quorum remains in office; otherwise an election shall be held to fill the vacancies, and a member of Council appointed or elected to fill a vacancy shall hold office only until the expiration of the term of the member so dead, resigned or incapacitated, and he shall be from the electoral district of the member whose place he is elected or appointed to fill.

(6) A retiring member of Council is not eligible for re-^{Re-election} election for the year immediately following his retirement, except where he is the president or vice-president at the date of his retirement. R.S.O. 1950, c. 21, s. 9.

10.—(1) The Registration Board of the Association, herein-^{Registration Board} after called the “Board”, is continued and shall carry on the functions of the Architects’ Registration Board established under *The Architects’ Act, 1931*, except as herein varied, and ^{1931, c. 43} the Board shall be composed as follows:

1. One member of the Association to be appointed by ^{University appointees} the University of Toronto and one member of the Association by each other university, college or body in Ontario that is by law authorized to grant degrees in architecture and that establishes and maintains to the satisfaction of the Board a faculty, school or department of architecture in connection therewith, each member appointed under this paragraph to hold office for a period of three years from the 1st day of January following his appointment.
2. One member of the Association to be appointed by ^{Government appointee} the Lieutenant Governor in Council, to hold office for a period of three years from the 1st day of January following his appointment.
3. Three members of the Association for the first ^{Elected members} appointee under paragraph 1 and one additional member of the Association for each additional appointee under paragraph 1, these members to be elected in the manner hereinafter provided, and each to hold office for three years from the 1st day of January following his election.

Eligibility
for re-
appointment

(2) Any member of the Board not otherwise disqualified is eligible for re-appointment or re-election at the expiration of his term, but a member of Council elected to the Board shall resign his seat on Council before taking his seat on the Board, and a member of the Board, while in office, is not eligible for election to Council.

Filling
vacancies

(3) Any member of the Board may resign by letter addressed to the chairman of the Board, and every vacancy on the Board caused by the death, resignation or incapacity to act of any member, if such member has been appointed under paragraph 1 of subsection 1, shall be filled by the university, college or body that appointed him, and, if such member has been appointed under paragraph 2 of subsection 1, by the Lieutenant Governor in Council, and, if such member has been elected under paragraph 3 of subsection 1, then by a majority vote of the members of the Board still in office, if a quorum is still in office; otherwise an election shall be held to fill the vacancy, and a member of the Board appointed or elected to fill the vacancy shall hold office only until the expiration of the term of the member so dead, resigned or incapacitated. R.S.O. 1950, c. 21, s. 10.

Right to
vote

11. All members of the Association are entitled to vote at elections for Council and for the elective members of the Board. R.S.O. 1950, c. 21, s. 11.

Regulations

12.—(1) The Board may make regulations,

- (a) for the admission of members of the Association and the annual renewal of membership therein;
- (b) prescribing the qualifications of persons to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) prescribing examinations for admission and the method of conducting them;
- (d) for keeping a register of members of the Association and for issuing certificates of membership under the seal of the Association and calling in such certificates where membership lapses or is cancelled or suspended;
- (e) prescribing the fees to be paid on admission of members to the Association, by associates and student associates, on examinations, on annual renewal of membership in the Association and as annual fees by associates and student associates;

- (f) providing for the discipline and control of members of the Association, including provision for the signing or sealing of drawings and specifications prepared by members of the Association;
- (g) providing for the cancellation of membership for non-payment of fees and for the cancellation of membership where a member changes his domicile to some place outside the Commonwealth;
- (h) providing for the election of members of Council and of the elective members of the Board, for the holding of meetings of the Board and for fixing the quorum of the Board;
- (i) for the election of a chairman and vice-chairman and the appointment of a secretary and such other officers of the Board as it desires and for prescribing their duties, and, subject to the provisions hereinafter contained, for fixing their remuneration;
- (j) for granting temporary licences to practise architecture pursuant to section 8 and fixing the fees to be paid thereon;
- (k) generally for the better carrying out of the powers vested in the Board.

(2) A copy of such regulations shall be furnished to every member of the Association. Publication
of
regulations

(3) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, Disciplinary
regulations

- (a) providing for the investigation of any complaint that a member of the Association has been guilty of misconduct or incompetence, so as to render it desirable in the public interest that his membership be suspended or cancelled;
- (b) providing for the cancellation or suspension of the membership of any person found by the Board to be guilty of misconduct or incompetence and for the publication in the public press of notice of such cancellation or suspension and the reason therefor;
- (c) providing the terms and conditions on which a member whose membership has been cancelled may in a proper case be restored to membership.

Publication
of
regulations

(4) A copy of such regulations made shall be furnished to every member of the Association. R.S.O. 1950, c. 21, s. 12.

By-laws

13. The Council may pass by-laws,

- (a) for the control and management of the real and personal property of the Association;
- (b) instituting and furnishing means and facilities for the promotion of knowledge, proficiency and a high standard of ethics in all things relating to the practice of architecture;
- (c) providing for scholarships, lectures and exhibitions;
- (d) for the holding of meetings of the Association and the Council and fixing the quorum thereat;
- (e) for the election of a president, vice-president and treasurer of the Association and the appointment of a secretary and such other officers of the Association as Council desires and for prescribing their duties, and, subject to the provisions hereinafter contained, for fixing their remuneration;
- (f) for the election of associates, student associates, and honorary members;
- (g) appointing representatives to other architectural associations or bodies and maintaining connection with the Royal Architectural Institute of Canada;
- (h) generally for carrying out the objects of the Association in all matters other than those referred to in section 12, all of which are reserved for regulation by the Board. R.S.O. 1950, c. 21, s. 13.

Application
of funds of
the
Association

14. The Council shall provide from the funds of the Association all moneys required by the Board to enable it to function in accordance with the powers vested in it, and any funds of the Association may be applied in carrying out this Act and the regulations or by-laws made under it and in furthering the objects of the Association and paying the costs and expenses incurred for or incident to the enactment of this legislation. R.S.O. 1950, c. 21, s. 14.

Duty of
Council and
members in
respect of
complaints

15. It is the duty of each member of Council to bring before it all complaints of misconduct or incompetence on the part of any member of the Association that may be brought

to his attention and it is the duty of the Council to bring before the Board all such cases that in its opinion should be dealt with by the Board, but nothing herein prevents anyone from bringing before the Board any complaints of misconduct or incompetence on the part of any member of the Association. R.S.O. 1950, c. 21, s. 15.

16. There shall be paid to the members of the Council and the Board such fees for attendance and such reasonable travelling expenses as are fixed, in the case of the Board, by its regulations and, in the case of the Council, by by-law, such fees, exclusive of travelling expenses, not to exceed \$15 per meeting for the chairman of the Board and \$15 per meeting for the president of the Association and \$10 per meeting for any other member of the Board or the Council, but, where the secretary of the Board or the Council is also a member of the Board or the Council, he may be paid such salary as the body appointing him decides upon, in addition to or by way of substitution for his fee as a member of such body. R.S.O. 1950, c. 21, s. 16.

17. Subject to the approval of the Council, members may form themselves into groups for promoting the objects of the Association, and such groups shall be known as Chapters and, subject to the approval of Council, each Chapter has power to make by-laws for the admission of members and associates thereof, for the election of officers, the holding of meetings and for otherwise conducting its affairs. R.S.O. 1950, c. 21, s. 17.

18.—(1) Every person who, not being a member of the Association, or who, having been a member, has had his membership cancelled or is under suspension, or who, not being licensed under section 8, applies to himself the term "architect" alone or in combination with any other term, or who holds himself out as an architect, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for a first offence and to a fine of not less than \$300 and not more than \$500 or to imprisonment for a term of not more than three months, or both, for any subsequent offence. R.S.O. 1950, c. 21, s. 18 (1).

(2) Every corporation that applies to itself the term "architect" or "architects" alone or in combination with any other term or that holds itself out as an architect or as architects is guilty of an offence and the corporation or any director thereof, on summary conviction, is liable to a fine of not less than \$100 and not more than \$500 for a first offence and to a fine of not less than \$200 and not more than \$1,000,

or to imprisonment for a term of not more than three months, or both, for a subsequent offence. 1953, c. 5, s. 2 (1).

Holding out
as architect
defined

(3) Without restricting the generality of subsections 1 and 2, any person who or corporation that prepares or offers to prepare for a fee, commission or other remuneration any sketch, drawing or specification for a proposed building structure or for a structural alteration of or addition to an existing building structure, when such proposed work is to cost more than \$10,000, shall be deemed to hold himself or itself out as an architect. R.S.O. 1950, c. 21, s. 18 (2); 1953, c. 5, s. 2 (2).

Proviso

(4) Nothing in this Act prevents or shall be deemed to prevent,

R.S.O. 1960,
c. 309

- (a) any person from performing his duties in Her Majesty's naval, military or aerial service;
- (b) any member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act* or any employee or person working under the responsibility of such member or licensee from performing architectural services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an engineer;
- (c) any partnership, association of persons or corporation that is entitled to practise in its own name under *The Professional Engineers Act* in accordance with the conditions therein prescribed from performing architectural services in the course of any work undertaken or proposed to be undertaken by such partnership, association or corporation pursuant to such entitlement;
- (d) any person or corporation from preparing a sketch, drawing or specification for a structure in, upon or pertaining to a mining property, or an alteration of or addition to an existing structure in, upon or pertaining to a mining property;
- (e) a *bona fide* member of an architect's staff from preparing a sketch, drawing or specification in the course of his employment under the supervision of the architect;
- (f) a *bona fide* building contractor, whether a person or corporation, or a *bona fide* member of such contrac-

tor's staff domiciled in Ontario from preparing a sketch, drawing or specification for such contractor's own use as a building contractor in the construction or alteration by such contractor, or by tradesmen employed by such contractor, of a building structure, whether it be proceeded with or not, and obtaining remuneration therefor;

- (g) any person or corporation from preparing any sketch, drawing or specification for interior decorations or the installation in the interior of a structure of fixtures, non-bearing partitions or equipment where the structural alterations involved do not raise considerations of strength or safety;
- (h) any person or corporation from using the term "Landscape Architect";
- (i) any person in the course of his employment under the supervision of or in conjunction with an architect from preparing a sketch, drawing or specification for work to be undertaken by his employer;
- (j) any person, firm or corporation engaged in the business of selling pre-fabricated building structures from furnishing such drawings, diagrams and directions as are required for the assembling and erection of such structures. R.S.O. 1950, c. 21, s. 18 (3); 1953, c. 5, s. 2 (3-7).

(5) Associates, student associates and honorary members shall not be deemed to be members of the Association within the meaning of this section unless and until admitted to membership pursuant to section 6, 7 or 8, but an honorary member or associate who has at some time been a member of the Association may continue to apply to himself the term "architect", but may not practise architecture. R.S.O. 1950, c. 21, s. 18 (4).

19. In the investigation of a complaint against a member of the Association, the Board has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 21, s. 19.

Students,
honorary
members,
etc.

Board has
power of
commission
under
R.S.O. 1960,
c. 323

20. No action shall be brought against the Board or the Council or any member or officer thereof for anything done under this Act or under any by-law or regulation passed in accordance therewith. R.S.O. 1950, c. 21, s. 20 (1), *part*.

No action
to lie against
Board or
Council

Appeal

21.—(1) Anyone whose membership has been suspended or cancelled may within fifteen days after the date of the order of suspension or cancellation appeal to the Court of Appeal from such order, and the practice and procedure in such appeal shall be the same as upon an appeal from the judgment of a judge of the Supreme Court presiding at a trial, and the Court of Appeal has power to confirm, vary, vacate or set aside such order or to make such other order as it deems just, and to make an order for payment of the costs of the appeal, and there shall be no further or other appeal. R.S.O. 1950, c. 21, s. 20 (1), *part*.

Practising,
pending
appeal

(2) Pending an appeal, the person whose membership is suspended or cancelled may continue to practise, but, unless the order of suspension or cancellation is set aside, he shall not practise after the appeal has been disposed of, except that, in the case of suspension, he may practise upon and after the expiry of the period of suspension. R.S.O. 1950, c. 21, s. 20 (2).

False
certificates

22. Every architect who wilfully makes a false certificate with respect to any work done or with respect to the cost, value or condition of any work or building is guilty of an offence and, in addition to being liable in damages for any injury or loss thereby suffered, is on summary conviction liable to a fine of not more than \$100. R.S.O. 1950, c. 21, s. 21.

Witness
fees

23. Every architect summoned to attend a civil or criminal court for the purpose of giving evidence in his professional capacity, for each day he so attends, is entitled to \$5 in addition to his travelling expenses, to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R.S.O. 1950, c. 21, s. 22.

Recovery
of fees

24. All fees fixed by the regulations of the Board shall be deemed to be a debt due to the Association and are recoverable with the costs of the suit in the name of the Association in the division court of the division in which the member liable resides or practises as an architect. R.S.O. 1950, c. 21, s. 23.

SCHEDULE

(Section 9 (2))

ELECTORAL DISTRICTS

Windsor

Counties of Essex, Kent, and Lambton.

Hamilton

Counties of Wentworth, Lincoln, Welland, Simcoe, Brant, Waterloo, Wellington, Grey, Haldimand, and Norfolk.

Toronto

Counties of York, Ontario, Peel, Halton, Durham, Northumberland, Hastings, Lennox and Addington, Dufferin, Peterborough, Haliburton, Victoria, Prince Edward, and the Districts of Haliburton, Parry Sound, Muskoka, Algoma, Manitoulin, Kenora, Rainy River, and Thunder Bay, and all places outside Ontario.

London

Counties of Middlesex, Huron, Bruce, Oxford, Elgin, and Perth.

Ottawa

Counties of Frontenac, Carleton, Renfrew, Lanark, Grenville, Dundas, Stormont, Glengarry, Prescott and Russell, and Leeds, and the Districts of Nipissing, Sudbury, Temiskaming, and Cochrane.

R.S.O. 1950, c. 21, Sched.

CHAPTER 21

The Archives Act

1. The Department of Public Records and Archives, hereinafter called the "Department", is continued. R.S.O. 1950, c. 22, s. 1. Department continued

2.—(1) There shall be an officer in charge of the Department to be known as the Archivist of Ontario, hereinafter referred to as "the Archivist", who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure and be in charge of the administration of this Act under the direction of the member of the Executive Council to whom the charge of the Department is from time to time assigned. Provincial Archivist, appointment of

(2) The Archivist has the rank of a deputy head of a department and in relation to the Department has all the powers and shall perform the duties of a deputy head of a department. R.S.O. 1950, c. 22, s. 2. Powers and duties of Archivist

3. Subject to the regulations, all original documents, parchments, manuscripts, papers, records and other matters in the executive and administrative departments of the Government or of the Assembly, or of any commission, office or branch of the public service shall be delivered to the Department for safe keeping and custody within twenty years from the date on which such matters cease to be in current use. R.S.O. 1950, c. 22, s. 3. Custody of original documents

4. The Archivist is authorized and directed to receive and grant discharges for all such matters as are transferred to the Department under this Act and the Department is thereafter responsible for the safe keeping of the matters so transferred. R.S.O. 1950, c. 22, s. 4. Responsibility of Department

5. The objects of the Department are,

Objects of Department

- (a) the classification, safe keeping, indexing and cataloguing of all matters transferred to the Department under section 3;
- (b) the discovery, collection and preservation of material having any bearing upon the history of Ontario;

- (c) the copying and printing of important public documents relating to the legislative or general history of Ontario;
- (d) the collecting of all documents having in any sense a bearing upon the political or social history of Ontario and upon its agricultural, industrial, commercial and financial development;
- (e) the collecting of municipal, school and church records;
- (f) the collection and preservation of pamphlets, maps, charts, manuscripts, papers, regimental muster rolls and other matters of general or local interest historically in Ontario;
- (g) the collection and preservation of information respecting the early settlers of Ontario, including pioneer experience, customs, mode of living, prices, wages, boundaries, areas cultivated, home and social life;
- (h) the collection and preservation of the correspondence of settlers, documents in private hands relating to public and social affairs and reports of local events of historic interest in domestic and public life;
- (i) the conducting of research with a view to preserving the memory of pioneer settlers in Ontario and of their early exploits and the part taken by them in opening up and developing the Province. R.S.O. 1950, c. 22, s. 5.

Preservation
of official
documents

6. Subject to the regulations, no official document, paper, pamphlet or report in the possession of any department or branch of the public service or of the Assembly shall be destroyed or permanently removed without the knowledge and concurrence of the Archivist. R.S.O. 1950, c. 22, s. 6.

Certified
copies

7. A copy of any original document in the custody of the Archivist, certified under his hand and seal to be a true copy, is *prima facie* evidence of the authenticity and correctness of of such document. R.S.O. 1950, c. 22, s. 7.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) respecting the administration of the Department and the duties of the Archivist;

- (b) prescribing the matters that shall be transferred to the Department under this Act and extending or reducing the period that shall elapse before any such matters are transferred to the Department;
- (c) for the classification of archives and other matters in the Department and the preparation of proper calendars, catalogues and indexes for the purpose of making such archives and other matters accessible for purposes of official, scientific and historical research;
- (d) directing the manner in which documents, papers, pamphlets or reports in the office of any member of the Executive Council or in any department or branch of the public service or the Assembly shall be disposed of from time to time and the class of documents, papers, pamphlets or reports that shall be deemed to be public archives. R.S.O. 1950, c. 22, s. 8.

9. Nothing in this Act shall be taken or deemed to authorize ^{Effect of} the destruction or other disposition of any official document, ^{this Act} paper, map, plan, report, memorandum or other matter in contravention of any order of the Assembly or of any express provision in any general or special Act of the Legislature. R.S.O. 1950, c. 22, s. 9.

CHAPTER 22

The Artificial Insemination Act**1.** In this Act,Interpre-
tation

- (a) "artificial insemination" means the depositing of semen in the vagina of a female domestic animal by a means other than the natural method;
- (b) "artificial insemination centre" means an establishment where semen is collected for purposes of artificial insemination;
- (c) "Board" means The Artificial Insemination Advisory Board;
- (d) "Commissioner" means the Live Stock Commissioner;
- (e) "licence" means a licence under this Act;
- (f) "Minister" means the Minister of Agriculture;
- (g) "technician" means a person who engages in the process of artificial insemination or the collection of semen for purposes of artificial insemination. R.S.O. 1950, c. 23, s. 1.

2. The Commissioner is responsible to the Minister for the administration and enforcement of this Act. R.S.O. 1950, c. 23, s. 2. Commis-
sioner to be
in charge

3.—(1) The Artificial Insemination Advisory Board shall act in an advisory capacity to the Minister and the Commissioner. Advisory
Board

(2) The Board consists of one or more persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council. Constitu-
tion of
Board

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chairman. Chairman

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant Governor in Council determines. R.S.O. 1950, c. 23, s. 3. Allowances
to members

Regulations

4. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the powers and duties of the Board;
- (b) providing for the issue of licences for the operation of artificial insemination centres and to technicians and for the renewal, refusal, suspension and revocation thereof;
- (c) prescribing the form of licences and the fees payable therefor;
- (d) prescribing requirements and minimum standards for artificial insemination centres;
- (e) prescribing the qualifications of technicians;
- (f) providing for grants for artificial insemination centres;
- (g) providing for the keeping of records and the making of returns or the furnishing of information by artificial insemination centres and technicians;
- (h) exempting any person from any or all of the provisions of this Act or the regulations made thereunder;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 23, s. 4.

Offences

5. Every person who contravenes any of the provisions of this Act or the regulations made thereunder is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$50 and not more than \$200 for a subsequent offence. R.S.O. 1950, c. 23, s. 5.

CHAPTER 23

The Assessment Act

1. In this Act,

Interpre-
tation

- (a) “collector” means a collector appointed under *The Municipal Act* and where no such appointment is made, means the treasurer; R.S.O. 1960,
c. 249
- (b) “county” includes a district;
- (c) “county council” includes a provisional county council;
- (d) “county court” includes a district court;
- (e) “county judge” includes a district judge;
- (f) “Department” means the Department of Municipal Affairs;
- (g) “insurance company” means any company or fraternal society or other corporation transacting within Ontario any class of insurance to which *The Insurance Act* applies or may hereafter be made applicable by any general or special Act of the Legislature; R.S.O. 1960,
c. 190
- (h) “judge of the county court” includes a junior judge, a deputy judge and a judge authorized to sit or act for a judge of the county court;
- (i) “land”, “real property” and “real estate” include,
 - (i) land covered with water,
 - (ii) all trees and underwood growing upon land,
 - (iii) all mines, minerals, gas, oil, salt quarries and fossils in and under land,
 - (iv) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,

(v) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway, lane or other public communication or water, but not the rolling stock of a transportation system;

R.S.O. 1960,
c. 222

(j) "loan company" means a loan corporation within the meaning of *The Loan and Trust Corporations Act*;

(k) "Minister" means the Minister of Municipal Affairs;

(l) "municipality" means a city, town, village or township, but not a county;

(m) "person" includes a partnership, a body corporate or politic, a bridge authority, an agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

(n) "telephone company" includes a person or association of persons owning, controlling or operating a telephone system or line, but not a municipal corporation;

(o) "tenant" includes an occupant and the person in possession other than the owner;

(p) "town" means an incorporated town;

(q) "township" includes a union of townships;

(r) "trust company" means a trust company within the meaning of *The Loan and Trust Corporations Act*;

(s) "village" means an incorporated village;

R.S.O. 1960,
c. 420

(t) "voters' list" means the municipal voters' list prepared under *The Voters' Lists Act*. R.S.O. 1950, c. 24, s. 1; 1954, c. 3, s. 1.

All taxes to
be levied
equally upon
all assess-
ments

2. All municipal, local or direct taxes or rates shall, where no other express provision is made, be levied upon the whole of the assessment for real property, business or other assessments made under this Act, according to the amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. R.S.O. 1950, c. 24, s. 2.

3. Where in *The Municipal Act*, or in any other general or special Act of the Legislature or in any by-law passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of a municipality for municipal or school purposes, such rates shall be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, business or other assessment made under this Act. R.S.O. 1950, c. 24, s. 3.

Rateable property, what to include
R.S.O. 1960, c. 249

EXEMPTIONS

4. All real property in Ontario is liable to assessment and taxation, subject to the following exemptions from taxation: R.S.O. 1950, c. 24, s. 4, *part*; 1958, c. 4, s. 1.

Property assessable and taxable, exemptions

1. Lands or property belonging to Canada or any Province.
2. Property held in trust for a tribe or body of Indians, but not if occupied by a person who is not a member of a tribe or body of Indians.
3. Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground.
 - (a) Where land is acquired for the purpose of a cemetery or burying ground but is not immediately required for such purpose, it is not entitled to exemption from taxation under this paragraph until it has been enclosed and actually and *bona fide* required, used and occupied for the interment of the dead. R.S.O. 1950, c. 24, s. 4, pars. 1-3.
 - (b) The exemption from taxation under this paragraph does not apply to lands rented or leased to a church or religious organization by any person other than another church or religious organization. 1960, c. 3, s. 1 (1).

Lands of Canada, etc.

Indian lands

Churches, etc.

When exemption not to apply

Idem

4. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied.

Public educational institutions

5. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or

Philanthropic or religious seminaries

religious purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings are exempt only while actually used and occupied by such seminary.

Educational
seminaries

6. The buildings and grounds not exceeding in the whole fifty acres of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for educational purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings are exempt only while actually used and occupied by such seminary, and such exemption does not extend to include any part of the lands of such a seminary that are used for farming or agricultural pursuits and are worked on shares with any other person, or if the annual or other crops, or any part thereof, from such lands are sold.

Public
hospitals
R.S.O. 1960,
c. 322

7. Every public hospital receiving aid under *The Public Hospitals Act* with the land attached thereto, but not land of a public hospital when occupied by any person as tenant or lessee.

(a) Land owned and used by such a public hospital for farming purposes shall be deemed attached to the hospital within the meaning of this paragraph, notwithstanding that it is separated therefrom by a highway. R.S.O. 1950, c. 24, s. 4, pars. 4-7.

Highways,
etc.

8. Every highway, lane or other public communication and every public square, but not when occupied by a tenant or lessee other than a public commission. R.S.O. 1950, c. 24, s. 4, par. 8; 1955, c. 4, s. 1 (1).

Municipal
property

9. Subject to section 43, the property belonging to any county or municipality or vested in or controlled by any public commission, including a municipal parking authority, wherever situate and whether occupied for the purposes thereof or unoccupied but not when occupied by a tenant or lessee. 1960, c. 3, s. 1 (2).

Boy Scouts
and Girl
Guides

10. Property owned, occupied and used solely and only by The Boy Scouts Association or The Canadian Girl Guides Association or by any provincial or local association or other local group in Ontario that is a member of either Association or is otherwise chartered or officially recognized by it.

Industrial
farms, etc.

11. Every industrial farm, house of industry, house of refuge, institution for the reformation of offenders or for the care of children, boys' and girls' home, or other similar insti-

tution conducted on philanthropic principles and not for the purpose of profit or gain, but only when the land is owned by the institution and occupied and used for the purposes of the institution.

12. Land of an incorporated charitable institution organized for the relief of the poor, The Canadian Red Cross Society, St. John Ambulance Association, or any similar incorporated institution conducted on philanthropic principles and not for the purpose of profit or gain, that is supported, in part at least, by public funds, but only when the land is owned by the institution and occupied and used for the purposes of the institution. R.S.O. 1950, c. 24, s. 4, pars. 10-12. Charitable institutions

13. The property of a children's aid society discharging the functions of a children's aid society under *The Child Welfare Act*, whether held in the name of the society or in the name of a trustee or otherwise, if used exclusively for the purposes of and in connection with the society. R.S.O. 1950, c. 24, s. 4, par. 13; 1957, c. 2, s. 1. Children's aid societies
R.S.O. 1960, c. 53

14. The property of every public library and other public institution, literary or scientific, and of every agricultural or horticultural society or association, to the extent of the actual occupation of such property for the purposes of the institution or society. R.S.O. 1950, c. 24, s. 4, par. 14. Scientific or literary institutions, etc.

(a) For the purposes of this paragraph, an agricultural society under *The Agricultural Societies Act* shall be deemed to be in actual occupation where the property of the society is rented and the rent is applied solely for the purposes of the society. 1955, c. 4, s. 1 (3). R.S.O. 1960, c. 11

15. Land acquired by a society or association by reason of its being the site of any battle fought in any war, and maintained, preserved and kept open to the public in order to promote the spirit of patriotism. Battle sites

16. The land of every company formed for the erection of exhibition buildings to the extent to which the council of the municipality in which such land is situate consents that it shall be exempt. R.S.O. 1950, c. 24, s. 4, pars. 15, 16. Exhibition buildings of companies

17. All machinery and equipment used for manufacturing or farming purposes, including the foundations on which they rest, but not including machinery and equipment to the extent that it is used, intended or required for lighting, heating or other building purposes or for producing power for sale, or machinery owned, operated or used by a transportation Machinery

system or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge or transportation system, or for the purpose of conducting steam, heat, water, gas, oil, electricity or any property, substance or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power or other service. 1955, c. 4, s. 1 (4).

Forestry
purposes

18. One acre used for forestry purposes for every ten acres of the farm in one municipality under a single ownership but not more than twenty acres in all, and, where the total acreage consists of more than one separately assessed parcel, the assessor shall treat all such parcels as one parcel for the purpose of determining the exemptions under this paragraph and shall apportion the exemption to each parcel in the ratio of the acreage of each parcel used or partly used for forestry purposes to the total acreage of all parcels used or partly used for forestry purposes. 1953, c. 6, s. 1 (1), *part.*

Exemption
of religious
institutions

5. The council of any local municipality may pass by-laws exempting from taxes, other than school taxes and local improvement rates, the land of any religious institution named in the by-law, provided that the land is owned by the institution and occupied and used solely for recreational purposes, on such conditions as may be set out in the by-law. 1952, c. 3, s. 2.

Where land
ceases to be
used for
forestry
purposes

6. The council of a town, village or township may by by-law provide that, if any part of a farm exempted under paragraph 18 of section 4 ceases to be used for forestry purposes so as not to come within the purview of such paragraph, the assessor shall so report to the clerk and that the clerk shall forthwith amend the collector's roll by inserting therein,

- (a) the rates or taxes with which the farm would have been chargeable for the preceding three years if such part of the farm had not been exempt; or
- (b) such portion of such rates or taxes as the by-law may provide or the council may by resolution deem proper,

and such rates or taxes or portion thereof are collectable in accordance with such amended roll. 1954, c. 3, s. 3.

7. The council of any local municipality may pass by-laws exempting from taxes, other than school taxes and local improvement rates, the land belonging to and vested in the Navy League of Canada under such conditions as may be set out in the by-law, so long as the land is occupied and used solely for the purposes of carrying out the activities of the Ontario division of the Navy League. 1955, c. 4, s. 2.

8. The exemptions provided for by section 4 are subject to the provisions of *The Local Improvement Act* as to the assessment for local improvements of land that would otherwise be exempt from such assessment under that section. R.S.O. 1960, c. 223

BUSINESS ASSESSMENT

9.—(1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business mentioned or described in this section shall be assessed for a sum to be called “business assessment” to be computed by reference to the assessed value of the land so occupied or used by him, as follows:

- (a) Every person carrying on the business of a distiller for a sum equal to 150 per cent of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied or used by him for the distilling of alcohol solely and only for industrial purposes and for a sum equal to 60 per cent of the assessed value as to such last-mentioned portion.
- (b) Every person carrying on the business of a brewer for a sum equal to 75 per cent of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied and used by him as a malting house and for a sum equal to 60 per cent of the assessed value as to such last-mentioned portion.
- (c) Every person carrying on the business of a wholesale merchant, insurance company, loan company or trust company, as defined by this Act, or of an express company carrying on business on or in connection with a railway or steamboats or sailing or other vessels or of a land company, or of a loaning land corporation, or of a bank or a banker, or of any other financial business, for a sum equal to 75 per cent of the assessed value.

- (d) Every person carrying on the business of selling or distributing goods, wares and merchandise through a chain of more than five retail stores or shops in Ontario, directly or indirectly, owned, controlled or operated by him, for a sum equal to 75 per cent of the assessed value of the land occupied or used by him in such business for a distribution premises, storage or warehouse for such goods, wares and merchandise, or for an office used in connection with such business.
- (e) Subject to clause *j*, every person carrying on the business of a manufacturer for a sum equal to 60 per cent of the assessed value, and a manufacturer is not liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land. R.S.O. 1950, c. 24, s. 6 (1), cls. (a-e).
- (f) Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a retail coal or fuel oil or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, for a sum equal to 50 per cent of the assessed value; but in cities having a population of not less than 100,000, retail coal or fuel oil dealers shall be assessed for a sum equal to 30 per cent of the assessed value. R.S.O. 1950, c. 24, s. 6 (1), cl. (f); 1953, c. 6, s. 3 (1).
- (g) Every person practising or carrying on business as a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, aurist, medical electrician, dentist, veterinarian, civil, mining, consulting, mechanical or electrical engineer, surveyor, contractor, builder, advertising agent, private detective, employment agent, accountant, assignee, auditor, osteopath, chiropractor, massagist, architect and, subject to subsection 10, every person carrying on a financial or commercial business or any other business as agent, for a sum equal to 50 per cent of the assessed value; but where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly

as a residence 30 per cent of the assessed value of the land occupied or used by him shall for the purpose of the business assessment be taken to be the full assessed value of the land so occupied or used. R.S.O. 1950, c. 24, s. 6 (1), cl. (*g*).

- (*h*) Every person carrying on the business of operating a radio or television broadcasting station or carrying on business as the publisher of a newspaper in a city, for a sum equal to 35 per cent and in any other municipality for a sum equal to 25 per cent of the assessed value. R.S.O. 1950, c. 24, s. 6 (1), cl. (*h*); 1957, c. 2, s. 2 (1).
- (*i*) Every person carrying on the business of a retail merchant in cities having a population of 50,000 or over, for a sum equal to 25 per cent of the assessed value; in other cities and towns having a population of 10,000 or over for a sum equal to 30 per cent of the assessed value, and in all other municipalities for a sum equal to 35 per cent of the assessed value.
- (*j*) Every person carrying on the business of a flour miller in a mill producing on an average less than fifty barrels a day, for a sum equal to 35 per cent of the assessed value. R.S.O. 1950, c. 24, s. 6 (1), cls. (*i*, *j*).
- (*k*) Every person carrying on the business of,
 - (i) a telegraph or telephone company, or
 - (ii) a transportation system, other than one for the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination of the foregoing, or
 - (iii) the transmission of water or of steam, heat or electricity for the purposes of light, heat or power,

for a sum equal to 25 per cent of the assessed value of the land (not being a highway, lane or other public communication or public place or water or private right of way), occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land.

- (l) Every person carrying on the business of transporting, transmitting or distributing by pipe line crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination of the foregoing, for a sum equal to 25 per cent of the assessed value of the land excluding any pipe line liable to assessment under section 40 or 41. 1957, c. 2, s. 2 (2).
- (m) Every person carrying on the business of a supervised car park, for a sum equal to 10 per cent of the assessed value.
 - (i) For the purpose of this clause, a supervised car park means an area of unimproved land where motor vehicles are parked or stored under supervision and where a charge for such supervision is made. R.S.O. 1950, c. 24, s. 6 (1), cl. (l).
- (n) Every person carrying on the business of a photographer or of a theatre, concert hall, or skating rink, or other place of amusement, or of a boarding stable, or a livery, or the letting of vehicles or other property for hire, or of a restaurant, eating house, or other house of public entertainment, or of an hotel or motel or any business not specially mentioned before in this section, for a sum equal to 25 per cent of the assessed value. R.S.O. 1950, c. 24, s. 6 (1), cl. (m); 1959, c. 6, s. 1.

Exception

(2) Where any person who is the owner or tenant of land sets aside an area of land for the exclusive use of his employees for parking their motor vehicles while at work and no charge is made for such parking privileges, such person is not liable for business assessment on land actually used for such purpose. 1955, c. 4, s. 3.

Transportation of gas, etc., by pipe line by manufacturer

(3) Where a manufacturer also carries on the business of a transportation system for the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing, he shall not be assessed for business assessment as a manufacturer in respect of such transportation system. 1957, c. 2, s. 2 (3).

Clubs

(4) Every proprietary or other club in which meals are furnished, whether to members or others, is liable to a business

assessment for a sum equal to 25 per cent of the assessed value of the land occupied or used for the purposes of the club.

(5) Subject to subsections 6 and 7, no person shall be assessed in respect of the same premises under more than one of the clauses of subsection 1, and, where any person carries on more than one of the kinds of business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of those clauses in which is included the kind of business that is the chief or preponderating business of those so carried on by him in or upon such premises.

Persons carrying on more than one class of business

(6) Where a manufacturer also carries on the business of a retail merchant, he shall be assessed as a retail merchant in respect of any premises or of any portion of any premises that are occupied and used by him solely and only for the purpose of such business.

Retailing by manufacturer

(7) Where a person carrying on the business of a public garage, as defined by paragraph 127 of subsection 1 of section 379 of *The Municipal Act*, also carries on the business of a supervised car park, he shall be assessed as a person carrying on the business of a supervised car park in respect of any premises or of any portion of the premises that are occupied and used by him solely and only for the purpose of such business.

Garage business and supervised car park
R.S.O. 1960, c. 249

(8) Where the amount of the assessment of any person assessable under this section would under the foregoing provisions be less than \$100, he shall be assessed for the sum of \$100.

Minimum assessment

(9) Where any person mentioned in subsection 1 occupies or uses land partly for the purpose of his business and partly for the purpose of a residence, he shall be assessed in respect of the part occupied for the purpose of his business only; but this provision does not apply to persons assessed under clause g of subsection 1.

Where land used partly for business and partly for residence

(10) A financial or commercial business does not include a business carried on by operating steamboats, sailing or other vessels, tow barges or tugs, nor the business of a steam railway. R.S.O. 1950, c. 24, s. 6 (2-8).

Operation of steamboats, etc.

(11) No person occupying or using land as a rooming house, farm, market garden, nursery or for the keeping of bees for

Farmers, etc.

the production of honey is liable to business assessment in respect of such land.

- (a) In this subsection, "rooming house" means any house or building or portion thereof in which the proprietor resides and occupies at least 10 per cent of the floor space as his residence, and supplies, for hire or gain, to other persons lodging with or without meals in rooms furnished by the proprietor with necessary furnishings, and does not include an hotel or apartment house. R.S.O. 1950, c. 24, s. 6 (9); 1953, c. 6, s. 3 (2).

Friendly
society,
subordinate
lodges

- (12) No subordinate lodge of any registered friendly society and no officer thereof is liable to any business assessment in respect of any business of such subordinate lodge.

Tax not a
charge on
land

- (13) Every person assessed for business assessment is liable for the payment of the tax thereon and the tax does not constitute a charge upon the land occupied or used.

Effect of
general
words

- (14) Wherever in this section general words are used for the purpose of including any business that is not expressly mentioned, such general words shall be construed as including any business not expressly mentioned, whether or not such business is of the same kind as or of a different kind from those expressly mentioned. R.S.O. 1950, c. 24, s. 6 (10-12).

TELEGRAPH AND TELEPHONE COMPANIES

Assessment
of telephone
companies
on gross
receipts in
cities, towns,
villages and
police
villages

- 10.**—(1) Every telephone company carrying on business in a city, town, village or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 60 per cent of the amount of the gross receipts from all telephone and other equipment belonging to the company located within the municipal limits of the city, town, village or police village, for the year ending on the 31st day of December next preceding the assessment; but in cities having a population of not less than 100,000 such company shall be assessed for 75 per cent of such gross receipts.

Assessment
of receipts
from long
distance
business

- (2) To remove doubts, it is hereby declared that the receipts of a telephone company from long distance business or calls in a municipality or police village are and always have been liable to assessment under subsection 1 in such municipality or police village. R.S.O. 1950, c. 24, s. 7 (1, 2).

Assessment
of telephone
companies
on mileage in
townships

- (3) Subject to subsection 4, every telephone company shall be assessed in every township for one circuit used for carrying messages and placed or strung on poles or other

structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the assessment, at the rate of \$135 per mile and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on the 31st day of December next preceding the assessment, at the rate of \$7.50 per mile.

(4) Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, it shall be assessed in every township for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the assessment, at the rate of \$50 per mile and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on the 31st day of December next preceding the assessment, at the rate of \$7.50 per mile.

Assessment
of local
telephone
companies

(5) In computing the length of telephone circuits placed or strung on poles or other structures or in conduits in townships,

Computation
of length
of circuits

(a) the portion of a circuit within a police village shall not be included;

(b) a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included;

(c) every circuit regardless of its length that connects two or more central exchange switchboards shall be included. 1955, c. 4, s. 4 (1).

(6) In a township, the land of a telephone company on which any building is erected or placed, and the building itself, are liable to assessment.

Telephone
company
assessable
for land
built on in
townships

(7) Every telegraph company carrying on business in a city, town, village or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 50 per cent of the amount of the gross receipts belonging to the company in such city, town, village or police village from the business of the company for the year ending on the 31st day of December next preceding the assessment.

Assessment
of telegraph
companies
on gross
receipts in
cities, towns
villages and
police
villages

Assessment
on mileage
in townships

(8) In every township, there shall be assessed against every such telegraph company a sum equal to \$40 for every mile of the length of one wire placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment and a sum equal to \$5 per mile for each additional wire so placed or strung on the 31st day of December next preceding the assessment.

Telegraph
company
assessable
for land
built on in
township

(9) In a township, the land of a telegraph company on which any building is erected or placed, and the building itself, are liable to assessment.

Telegraph
and
telephone
plant of
railways

(10) The telephone and telegraph plant, poles and wires of a steam railway company that are used exclusively in the running of trains or for any other purposes of a steam railway and not for commercial purposes are exempt from assessment; but each of such wires when used for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned.

Wires in
police
villages
and branch
and loop
lines
excluded

(11) In the computation of the length of telegraph wires and additional wires for assessment in a township, the wires placed or strung within the area of any police village and the wires of all branch and loop lines that do not exceed twenty-five miles in length shall not be included. R.S.O. 1950, c. 24, s. 7 (6-11).

Measure-
ment of
additional
wires

(12) In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed. 1955, c. 4, s. 4 (2).

Assessment
exemptions
of companies

(13) Every company assessed as provided in this section is exempt from assessment in any municipality in respect of all machinery, plant and appliances wherever situate, and is exempt from assessment in cities, towns, villages and police villages in respect of all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water.

Poles and
wires on
township
boundaries

(14) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on a boundary line between two townships or so near thereto that they are in some places on one side and in other places on the other side of the boundary line or are placed on a road that lies between two townships, although it may deviate so as in some places to be wholly or partly within either of them, the company shall

be assessed in each township for one-half of the amount assessable against it under subsection 3, 4, 8, or 10, as the case may be, in both the townships taken together.

(15) Notwithstanding subsection 13, the assessment of a telephone company or telegraph company under this section shall be deemed to be real property assessment, and the taxes payable by any such company are a lien upon all the lands of the company in the municipality. R.S.O. 1950, c. 24, s. 7 (13-15).

11.—(1) Every telegraph and telephone company doing business in Ontario shall on or before the 1st day of March in each year transmit to the assessment commissioner or, if there is no assessment commissioner, to the clerk of every city, town and village and to the clerk of the township in the case of a police village in which the company does business, a statement in writing of the amount of the gross receipts of the company in such city, town, village or police village for the year ending on the 31st day of December next preceding the assessment. Returns by telegraph and telephone companies

(2) Every telegraph and telephone company doing business in Ontario shall on or before the 1st day of March in each year transmit to the assessment commissioner or, if there is no assessment commissioner, to the clerk of every township in which the company does business, a statement in writing (Form 8) showing, Idem

- (a) the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of adjoining townships) in use by the company in such township on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of adjoining townships) whether or not in use by the company in such township on the 31st day of December next preceding the assessment; and
- (b) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of adjoining townships) in use by the company in such township on the 31st day of December next preceding the assessment, and

the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of adjoining townships) whether or not in use by the company in such township on the 31st day of December next preceding the assessment. 1955, c. 4, s. 5.

Power of township to assess on basis of gross receipts

12.—(1) Where in a township the density of population is not less than 150 of population to 500 acres, the council thereof may, subject to the approval of the Department, by by-law define such areas and declare them to be police villages for the purposes of section 10, and each year thereafter so long as the by-law remains in force every telephone and telegraph company carrying on business in the areas shall be assessed therein on a gross receipts basis in the manner provided in section 10, except that in such case the company shall be assessed for 45 per cent of the amount of the gross receipts from all equipment belonging to the company located within the areas.

Map of areas to be attached

(2) Every by-law passed under subsection 1 shall have attached thereto a map showing clearly the boundaries of the areas. R.S.O. 1950, c. 24, s. 9 (1, 2).

First statement of company based on gross receipts

(3) Where a by-law is passed under subsection 1, every telephone and telegraph company required under section 11 to transmit a statement to the municipality shall keep records of the gross receipts earned by the company on and after the 1st day of January in the year following that in which the by-law was approved by the Department, and the statement required to be transmitted to the municipality by the 1st day of March in the second year following that in which the by-law was approved shall be based on the gross receipts earned by the company in the year following that in which the by-law was approved. 1955, c. 4, s. 6 (1).

Duty of clerk

(4) Upon the passing, amending or repealing of a by-law under subsection 1, the clerk shall forthwith transmit a copy thereof to the Minister and to every telephone and telegraph company carrying on business in the areas defined in the by-law. R.S.O. 1950, c. 24, s. 9 (4); 1952, c. 3, s. 5 (1).

Limit of taxation of gross receipts of a telephone company

13. Notwithstanding the other provisions of this Act or any other general or special Act, the total amount of the taxes and rates levied and imposed in any year in respect of the gross receipts of a telephone company in a municipality shall not exceed an amount equal to 5 per cent of the total of the gross receipts of the company from its business in the municipi-

pality for the year ending on the 31st day of December next preceding the assessment, and the effect of such limitation is the responsibility of the municipality and shall be charged to its general funds and not to any body for which the council is required by law to levy and impose taxes and rates. 1953, c. 6, s. 4; 1957, c. 2, s. 3.

EASEMENTS AND LAND USED AS LANES

14.—(1) Where an easement is appurtenant to any land, it shall be assessed in connection with and as part of the land at the added value it gives to the land as the dominant tenement, and the assessment of the land that, as the servient tenement, is subject to the easement shall be reduced accordingly. Assessment of easements

(2) Where land is laid out and used as a lane and is subject to such rights of way as prevent any beneficial use of it by the owner, it shall not be assessed separately, but its value shall be apportioned among the various parcels to which the right of way is appurtenant and shall be included in the assessment of such parcels and in such cases the assessor shall return the land so used as "Lane not assessed". Lanes used as right of way

(3) Where a dominant tenement is sold for arrears of taxes, the easements appurtenant thereto shall pass to the purchaser and, where a servient tenement is sold for arrears of taxes, the sale shall not affect any easement to which it is subject. Sale for taxes of dominant and servient tenement

(4) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of this section. Restrictive covenant
R.S.O. 1950, c. 24, s. 10.

15.—(1) Where land sold for arrears of taxes was a dominant tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements appurtenant thereto shall be deemed to have passed to the purchaser. Provision as to easements attaching to dominant tenement

(2) Where land sold for arrears of taxes was a servient tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements to which the land was subject are not affected by the sale. Provision as to easements affecting servient tenement

(3) For the purposes of this section, a restrictive covenant running with the land shall be deemed to be an easement. Restrictive covenant

(4) Nothing in this section in any way affects or defeats the Crown with respect to its interest in any land which, or any interest in which, has been sold for taxes, or against which, or any interest in which, a tax arrears certificate has been registered. R.S.O. 1950, c. 24, s. 11. Savings as to rights of Crown

ASSESSMENT RETURNS BY TAXPAYERS

Right of
access

16.—(1) The assessment commissioner, if any, every assessor of a municipality, the county assessor, the commissioner and members of courts of revision, the county court judge, the members of the Ontario Municipal Board and officials of the Department shall at all reasonable times and upon reasonable request be given free access to all land and to all parts of every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, for the purpose of making a proper assessment thereof or of making a proper business assessment in respect thereof. R.S.O. 1950, c. 24, s. 12 (1); 1956, c. 3, s. 2 (1).

Information

(2) Every adult person present on land when any person referred to in subsection 1 visits the land in the performance of his duties shall upon request give to such person all the information in his knowledge that will assist such person to make a proper assessment of the land and every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, to make a proper business assessment in respect thereof, and to obtain the information he requires with respect to any person whose name he is required to enter on the assessment roll or in the census register. 1956, c. 3, s. 2 (2).

Where
assessor
unable to
obtain
information
by visit

17.—(1) Where an assessment commissioner or an assessor has twice visited land for the purpose of making a proper assessment thereof or a proper business assessment in respect thereof or census and has been unable to obtain all information necessary for such purpose, he may deliver or cause to be delivered or mailed to the address of any person, whether resident in the municipality or not, who is or may be assessed in respect of the land, a notice and any of the questionnaires in Form 1.

Return of
question-
naire

(2) Every person to whom such notice and any of such questionnaires are delivered or mailed shall, within ten days after the delivery or mailing, enter thereon in the proper places all the information required thereby that is within his knowledge and sign and deliver or mail the questionnaires to the assessment commissioner or assessor whose name and address appear on the notice.

Proviso

(3) Except as provided in this or any other section of this Act, no person may be required by an assessment commissioner, assessor or other person to furnish information with respect to the assessment of land, business or persons or with respect to the census. R.S.O. 1950, c. 24, s. 13.

18. The assessor is not bound by any statement delivered ^{Assessor not bound by returns} under section 16 or 17, nor does it excuse him from making due inquiry to ascertain its correctness, and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his name or any land that he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such land. R.S.O. 1950, c. 24, s. 14.

19.—(1) Every person who, having been required to furnish information under section 16 or 17, makes default in ^{Offence, for not furnishing information} delivering or furnishing it and any corporation that makes default in delivering the statement mentioned in section 11 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 and an additional fine of \$10 for each day during which default continues.

(2) Every person who knowingly states anything false in ^{for false statement} any such statement or in furnishing such information is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 24, ss. 15 (1, 2), 232.

(3) Every person who wilfully obstructs or interferes with ^{for obstructing assessor, etc.} any person referred to in subsection 1 of section 16 in the performance of any of his duties or the exercise of his rights, powers and privileges under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 24, ss. 15 (3), 232; 1957, c. 2, s. 4.

PREPARATION OF ASSESSMENT ROLLS

20.—(1) Every assessor shall prepare an assessment roll ^{Assessment rolls, form and contents} in which after diligent inquiry he shall set down, according to the best information to be had, the particulars hereinafter mentioned, and in doing so he shall observe the following provisions:

1. He shall set down the names and surnames, in full, if ^{Names of persons assessed} they can be ascertained, of all persons, whether they are or are not resident in the municipality, ward, or district for which he has been appointed, who are liable to assessment therein.

2. He shall set down in the proper column opposite his ^{Amount assessed against them} name the amounts assessable against each person. R.S.O. 1950, c. 24, s. 16 (1), cls. (a, b).

Value of
machinery,
etc.

3. The value of the machinery and equipment referred to in paragraph 17 of section 4 shall not be entered on the roll. 1958, c. 4, s. 2 (1).

Subdivisions
to be
designated

4. Land known to be subdivided shall be designated in the roll by the numbers or other designation of the subdivisions, with reference where necessary to the plan or survey thereof, and land not subdivided into lots shall be designated by its boundaries or other intelligible description.

Description
of part of
lot

5. Where part of a subdivision lot in a municipality is to be assessed, it is a sufficient description of it if the name of the owner and the tenant, if any, and the number of feet of its frontage are entered on the assessment roll, and the part assessed shall be deemed to be that part of the lot belonging to the owner whose name is so entered.

Each lot to
be assessed

6. Each subdivision shall be assessed separately, and every parcel of land (whether a whole subdivision or a portion thereof, or the whole or a portion of any building thereon) in the separate occupation of any person shall be separately assessed; provided that no portion of any building used or intended to be used as a residence shall be separately assessed unless it is a domestic establishment of two or more rooms in which the occupants usually sleep and prepare and serve meals.

Description
of block of
vacant land

7. Where a block of vacant land subdivided into lots is owned by the same person, it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll, and the provisions of section 143 apply.

Assessment
of both
owner and
tenant

8. Subject to subsection 4, where land is assessed against both owner and tenant, both names shall be entered on the roll, bracketed opposite the land, and numbered on the roll.

Entry of
name of wife
or husband
of person
rated

9. The assessor shall also enter on the roll, bracketed with the name of the owner or tenant, the name of the husband or wife, as the case may be, of such owner or tenant who is entitled to be a municipal elector under *The Municipal Act*.

R.S.O. 1960,
c. 249

(NOTE.—*In cities and separated towns the particulars required by paragraph 9 may be entered in a separate or supplementary assessment roll. See section 22.*)

Deceased
persons

10. No assessment shall be made against the name of any deceased person, but, when the assessor is unable to ascertain the name of the person who should be assessed in lieu of the

deceased person, he may enter, instead of such name, the words "Representatives of A. B., deceased" (*giving the name of the deceased person*). R.S.O. 1950, c. 24, s. 16 (1), cls. (c-i).

11. The assessor shall also enter on the roll as required by section 24 the name of every farmer's son, farmer's daughter and farmer's sister entitled to be entered thereon and shall also enter on the roll, bracketed with the name of every farmer's son entered thereon, the name of the wife of such farmer's son who is entitled to be a municipal elector under *The Municipal Act*.

Farmer's
son,
daughter,
etc.

R.S.O. 1960,
c. 249

12. Where in any municipality or portion of a municipality streets and other highways are commonly known locally by names or numbers, they shall be entered and listed in the assessment roll by their names or numbers according to such orderly plan or method that every separately assessed parcel fronting on either side of such street or highway is entered on the roll in proper sequence of street numbers for that side of the street or highway on which it fronts or, if there are no street numbers, in such other suitable sequence for that side of the street or highway on which it fronts as will ensure ready and certain identity for each separately assessed parcel.

Entry on
roll by
streets

13. Where in any municipality or portion of a municipality streets and highways are not commonly known locally by names or numbers, every assessed parcel shall be entered in the assessment roll according to such orderly plan or method and in such suitable sequences as will ensure ready and certain identity for each separately assessed parcel.

Where no
street
names

14. In the preparation of the assessment roll for any municipality, it shall be so arranged that the assessments for each ward and for each polling subdivision into which the municipality is divided shall be kept separate from the assessments for every other ward and polling subdivision.

Separation
of wards,
etc.

15. In the preparation of the assessment roll for any township divided into public school areas or public school sections, it shall be so arranged that the assessments for each public school area or public school section shall be kept separate from the assessments for every other public school area or public school section; provided that this paragraph does not apply in any township divided into wards or polling subdivisions if the boundaries thereof or of a grouping thereof do not coincide with the boundaries of the public school areas or public school sections. R.S.O. 1950, c. 24, s. 16 (1), cls. (k-o).

Separation
of school
sections
or areas

Further
particulars

(2) The assessor shall set down the particulars in separate columns as follows:

Column 1.—The successive number on the roll.

Column 2.—Name (surname first) and post office address and rural route mail number, if any, of every taxable person (including the owner and tenant in regard to each parcel of land) and of every person otherwise assessable and entitled to have his name entered on the roll.

Column 3.—Year of birth of every person entered on the roll.

Column 4.—Statement whether the person is a British subject or an alien by inserting opposite his name the letters "B S" or "A", as the case may be.

R.S.O. 1960,
c. 249

Column 5.—Statement whether the person is an owner or tenant by inserting opposite his name the letter "O" or "T", as the case may be, and where the person is a "farmer's son", "farmer's daughter" or "farmer's sister", there shall also be similarly entered the letters "F S", "F D" or "F Sis", and, in the case of a person who is entitled to be a municipal elector by reason of being the husband or wife of the person rated or entitled to be rated for land as provided by *The Municipal Act* or by reason of being the wife of a farmer's son, or a farmer's daughter, or farmer's sister, there shall also be entered the letters "M F N C", meaning that such person is entitled to vote at municipal elections but is not to be counted for the purpose of determining representation in the county council, and all such names shall be numbered on the roll.

(NOTE.—*In cities and separated towns it is not necessary to enter on the roll the letters "M F N C" as above required as the names of such persons may be entered on a separate or supplementary assessment roll. See section 22.*)

Column 6.—Occupation and, in the case of women, a statement whether the person is a spinster, married woman, or widow, by entering opposite the name of the person the letter "S", "M" or "W", as the case may be, and in the case of a non-resident owner the letters "NR". (NOTE.—*See as to trustees, etc., section 32 (8).*)

Column 7.—Number of concession, name of street, or other designation of the local division in which the land lies.

Column 8.—Number of lot, house, etc., in such division. (NOTE.—*See also subsection 3.*)

Column 9.—Number of acres, or other measures showing the extent of the property.

Column 10.—Actual value of the parcel of real property, exclusive of the buildings thereon.

Column 11.—Value of buildings as determined under section 35.

Column 12.—Total actual value of the land.

Column 13.—Total amount of taxable land.

Column 14.—Total value of the land if liable for school rates only.

Column 15.—Total value of land exempt from taxation or liable for local improvements only.

Column 16.—Total assessment for real property under clauses *a* and *c* of subsection 2 of section 294 of *The Municipal Act*. R.S.O. 1960, c. 249

Column 17.—Percentage applied in determining the amount of business assessment under section 9.

Column 18.—Amount of business assessment under section 9.

Column 19.—Total assessment.

Column 20.—Residential assessment (include value of both land and buildings).

Column 21.—Professional and commercial assessment (include value of both land and buildings).

Column 22.—Manufacturing and industrial assessment (include value of both land and buildings).

Column 23.—Farm assessment (include value of both land and buildings, but only land actually in use for agricultural purposes or the growing of timber).

Column 24.—Vacation resort assessment (include value of both land and buildings used as summer cottages, hotels for summer use, ski and hunting lodges, etc.).

Column 25.—Waste land assessment (the value of any lands that are not suitable for agricultural purposes or the growing of timber or used as a vacation resort).

Column 26.—Religion.

Column 27.—School sections, and whether a public or separate school supporter, by inserting the letter "P" or "S", as the case may be.

Column 28.—Number of persons in the family of each person assessed as a resident, including such person and all other persons residing on the premises.

Column 29.—Number of dogs and number of bitches.

Column 30.—Date of delivery of notice under section 48.

Column 31.—Remarks. R.S.O. 1950, c. 24, s. 16 (2); 1957, c. 2, s. 5 (1); 1958, c. 4, s. 2 (3); 1959, c. 6, s. 2.

When
residence of
person
assessed
to be
entered

(3) Opposite the name of every person entered on the assessment roll but not assessed for land the assessor shall, in columns 7 and 8, enter,

(a) in the case of a city, town or village, the residence of such person by its number, if any, and the street or locality in which it is situate;

(b) in the case of a township, the concession wherein and the lot or part of the lot whereon such person resides,

and in all cases any additional description as to locality or otherwise that may be reasonably necessary to enable such residence to be ascertained and verified. R.S.O. 1950, c. 24, s. 16 (3).

Special
columns in
cities and
towns

(4) The assessor may vary the form of the assessment roll so as to show in columns 1, 2, 3, 5 and 6 the name and other particulars relating to tenants (or if there is no tenant by entering in column 2 the words "vacant lot") and in an additional set of columns numbered 1*a*, 2*a*, 3*a*, 4*a* and 5*a* similar particulars relating to the owner or tenant if the tenant is a lessee holding under a lease extending over twenty-one or more years, and by inserting in column 4*a* the letter "O" or "L", as the case may require, opposite the name of the owner or lessee. R.S.O. 1950, c. 24, s. 16 (4); 1955, c. 4, s. 7.

Mechanical
preparation
of assess-
ment roll

(5) The form may be varied to facilitate the use of mechanical methods of preparing the roll, and without limiting the generality of the foregoing,

(a) in the case of a British subject, the letters "B S" may be omitted and such omission signifies that the person is entered on the roll as a British subject;

- (b) the letters "M F" may be entered in place of the letters "M F N C";
- (c) in the case of a public school supporter, the letter "P" may be omitted and such omission signifies that the person is entered on the roll as a public school supporter;
- (d) in the case of an owner, the letter "O" may be omitted and such omission signifies that the person is entered on the roll as an owner. R.S.O. 1950, c. 24, s. 16 (5).

21. The Minister may, subject to the approval of the Lieutenant Governor in Council, by regulation prescribe rules and the class of municipality to which the rules shall apply for the guidance of assessors, and every assessor affected thereby shall conduct himself in accordance therewith. R.S.O. 1950, c. 24, s. 17.

22. In cities and separated towns and in municipalities in the territorial districts, it is not necessary to comply with the provisions of paragraph 9 of subsection 1 of section 20 or of column 5 in subsection 2 of section 20 as to the entry of the letters "M F N C", but the name of every person who is entitled to be a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as above set out may be entered in a separate or supplementary assessment roll by the assessor and all such rolls shall be verified by the assessor by his affidavit or solemn affirmation according to the following form:

I (*name and residence*).....
make oath and say (*or solemnly declare and affirm*) that:

I have, according to the best of my information and belief, set down in the above separate assessment roll the name of every person who is entitled to be a municipal elector by reason of being the husband or wife of the person rated or entitled to be rated for land as provided by *The Municipal Act*.

R.S.O. 1950, c. 24, s. 18; 1959, c. 6, s. 3, *amended*.

23.—(1) Notwithstanding anything in this Act, in a municipality composed of more than one township, the assessor, when he finds it difficult for any reason to comply with the provisions of this Act requiring a separate assessment of each lot or subdivision thereof, may assess the land of any person *en bloc* and for a lump sum or at so much per acre, without placing a separate valuation upon each lot or subdivision thereof, and without distributing the assessment in any way

or entering any other details in the assessment roll or observing any of the formalities in relation to the assessment roll, prescribed by this Act.

Entering
tenant on
roll

(2) Where any part of such land is to the knowledge of the assessor occupied by any person as tenant, he shall enter the name of such person on the roll and make a separate assessment of the land so occupied, but failure to enter such tenant on the roll or to assess the lands occupied by him does not render invalid any assessment *en bloc* and for a lump sum or at so much per acre as provided by subsection 1. R.S.O. 1950, c. 24, s. 20.

Interpre-
tation

24.—(1) In this section,

- (a) “farm” means not less than twenty acres of land in the actual occupation of the owner of it;
- (b) “father” includes stepfather;
- (c) “mother” includes stepmother;
- (d) “owner” means a person who is owner in his or her own right, or a person whose wife is owner in her own right, of any estate for life or any greater estate legal or equitable, or of a leasehold estate, the term of which is not less than five years, except where the person is a widow and in that case “owner” means “owner in her own right” of such an estate;
- (e) “son”, “sons”, “farmer’s son” and “farmers’ sons” means son or sons, stepson or stepsons of the full age of twenty-one years not otherwise entitled to be entered on the voters’ list;
- (f) “daughter”, “daughters”, “farmer’s daughter” and “farmers’ daughters” means daughter or daughters, stepdaughter or stepdaughters of the full age of twenty-one years not otherwise entitled to be entered on the voters’ list;
- (g) “farmer’s sister” means a sister of the full age of twenty-one years, not otherwise entitled to be entered on the voters’ list, who is the sister of the owner of a farm who is unmarried or is a widower, and has resided on the farm with such owner for the twelve months next preceding and is residing thereon at the date fixed for beginning to make the assessment roll.

Farmers’
sons and
daughters

(2) Subject to subsections 3 to 10, where a father or mother is the owner of a farm, his or her sons and daughters who have

resided on the farm for the twelve months next preceding and are residing thereon at the date fixed for beginning to make the assessment roll have the same right to be entered on the roll as if they were jointly assessed for the farm with the father or mother, but they shall be entered on the roll as farmers' sons, or farmers' daughters, as the case may be.

(3) Where the amount at which the farm is assessed is insufficient, if equally divided between a father or mother and son or daughter, and they were jointly assessed for it, to qualify both to vote at a municipal election, the son or daughter is not entitled to be entered on the roll in respect of the farm.

(4) If the father is living and there are more sons than one resident as provided in subsection 2, and the farm is not assessed for an amount sufficient, if equally divided between them, to qualify the father and all such sons to vote at a municipal election, so many of the sons in the order of their seniority, beginning with the eldest, as the amount at which the farm is assessed, if equally divided between them and the father, would be sufficient to qualify, are entitled to be entered on the roll as farmers' sons.

(5) If the father is dead and the mother is a widow and the farm is not assessed for an amount sufficient, if equally divided between them, to qualify all of them to vote at a municipal election, so many of the sons, in the order mentioned in subsection 4, as the amount at which the farm is assessed, if equally divided between the mother and them, would be sufficient to qualify, are entitled to be entered on the roll as farmers' sons.

(6) Where a father or mother has no sons, the daughters, if any, for the purposes of subsection 4 or 5 are entitled to be entered on the roll as farmer's daughters in the same manner and to the same extent as the sons, if there had been sons, would have been entitled to be entered on the roll.

(7) Where a father or mother has sons and daughters and the farm is assessed at an amount more than sufficient to entitle the father or mother and all the sons to be entered on the roll, but is not assessed for an amount sufficient to qualify also all such daughters to vote at a municipal election, so many of the daughters in the order mentioned for sons in subsection 4 as the amount at which the farm is assessed, if equally divided between the father, mother and the sons and daughters, would be sufficient to qualify, are entitled to be entered on the roll as farmers' daughters.

Right of
farmer's
sister to
vote

(8) A farmer's sister has the same right to be entered on the roll as if she were jointly assessed for the farm with the owner, but she shall not be entered thereon as a farmer's sister unless the amount at which the farm is assessed is sufficient, if equally divided between them and they were jointly assessed for it, to qualify both to vote at a municipal election.

Right of
more than
one farmer's
sister to
vote

(9) In case more than one farmer's sister has the right under subsection 8 to be entered on the roll with the owner, and the farm is not assessed for an amount sufficient to qualify all such farmer's sisters to vote at a municipal election, so many of the farmer's sisters in the order mentioned for sons in subsection 4 as the amount at which the farm is assessed, if equally divided between the owner and the farmer's sisters, would be sufficient to qualify, are entitled to be entered on the roll as farmer's sisters.

Occasional
absence not
to dis-
qualify

(10) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months does not disentitle a farmer's son, farmer's daughter or farmer's sister to be entered on the roll. R.S.O. 1950, c. 24, s. 21.

ENTRY OF SCHOOL SUPPORTERS ON ROLL

Assessor to
be guided by
index book
R.S.O. 1960,
c. 368

25. Where the index book required by section 54 of *The Separate Schools Act* is prepared, the assessor shall be guided thereby in ascertaining who have given the notices that are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax. R.S.O. 1950, c. 24, s. 23.

Evidence on
which
assessor to
enter
persons as
separate
school
supporters

26. The assessor, where the entry in the index book mentioned in section 25 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person in the proper column of the assessment roll for separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this also is sufficient for placing him in such column. R.S.O. 1950, c. 24, s. 24.

School
support

27.—(1) The court of revision shall hear and determine all complaints with regard to persons alleged to be wrongfully placed upon or omitted from the roll as public school supporters or as Roman Catholic separate school supporters, and any person so complaining or any ratepayer may give notice in

writing to the assessment commissioner or, if none, to the clerk of the municipality of such complaint, and the provisions of this Act as to giving notice of complaints against the assessment roll and proceedings for the trial thereof apply to complaints under this section except that the notice of complaint may be given at any time on or before the 14th day of October or the last day for appealing to the court of revision, whichever is the later.

(2) Liability in respect of public or separate school support shall be determined in accordance with the circumstances existing at the time the notice of complaint was given. Determination of school support, time for

(3) Notwithstanding subsection 1, if the notice of complaint is received more than thirty days before the last day for giving the notice under subsection 1, the assessment commissioner or, if none, the assessor shall prepare and deliver to the clerk of the municipality, on or before the last day for giving the notice of complaint, a revised assessment notice showing liability in accordance with the circumstances existing at the time the notice of complaint was given, which notice shall be sent by the clerk, with the notice of the sitting of the court of revision to consider the complaint, to the owner or tenant to be assessed, to the owner or tenant appearing on the assessment roll and to the complainant, and the court of revision shall amend the roll in accordance with such revised assessment notice unless one of the parties concerned or his agent appears at the hearing and objects thereto, in which event the court of revision shall determine the matter as provided in subsection 1. 1960, c. 3, s. 2. Revised assessment notice

28.—(1) In the case of a municipality in which there are supporters of a Roman Catholic separate school therein, or contiguous thereto, there shall be printed in conspicuous characters, or written across or on the assessor's notice to every ratepayer provided for by section 48 and set out as Form 2, in addition to the proper entry heretofore required to be made in the column respecting the school tax, the following words: "*You are assessed as a Separate School supporter*" or "*You are assessed as a Public School supporter*", as the case may be; or these words may be added to the notice to the ratepayer set forth in such Form. Notice to be given of assessment as public or separate school supporter

(2) Where a ratepayer, who was in the next preceding year assessed as a public school supporter, is being assessed as a separate school supporter or where a ratepayer, who was in the next preceding year assessed as a separate school supporter, is being assessed as a public school supporter, it is the duty of the assessor to give, in addition to all other notices, Notice to be given of change in assessment as public or separate school supporter

a written or printed notice to the ratepayer that the change is being made. R.S.O. 1950, c. 24, s. 26.

CENSUS

Yearly
census of
inhabitants

29.—(1) The assessor of every municipality shall take a yearly census of the inhabitants of the municipality according to the following age groups:

Group	Age	Group	Age	Group	Age
1.—3	and under	5.—8	and 9	9.—16	to 19
2.—4		6.—10	to 13	10.—20	to 59
3.—5		7.—14		11.—60	to 64
4.—6	and 7	8.—15		12.—65	to 69
				13.—70	and over.

Register
of census

(2) The assessor shall enter the census in a register to be provided for the purpose by the clerk of the municipality, according to the form and including the particulars approved by the Department.

Return of
the census

(3) The register duly completed by the assessor shall be returned to the clerk with the assessment roll or at such other time of the year as the council may by by-law direct. R.S.O. 1950, c. 24, s. 27.

LIST OF LANDS PATENTED, LOCATED, ETC.

County
treasurer to
furnish
copies of
lists to
clerks of
municipalities
R.S.O. 1960,
c. 324

30. The county treasurer shall, from the list transmitted to him by the Minister of Lands and Forests under section 36 of *The Public Lands Act*, furnish to the clerk of each municipality in the county a copy of the list, so far as regards lands in such municipality, and such clerk shall furnish the assessors respectively with a statement showing what lands in the list are liable to assessment within such assessor's assessment district. R.S.O. 1950, c. 24, s. 28.

(NOTE.—*See The Public Lands Act, R.S.O. 1960, c. 324, s. 36, requiring the Minister of Lands and Forests to send a list of lands patented, located, etc., to treasurers of counties and of local municipalities in unorganized territory.*)

See The Registry Act, R.S.O. 1960, c. 348, s. 108, and The Land Titles Act, R.S.O. 1960, c. 204, s. 177, requiring registrars and masters to furnish lists of transfers of land to municipalities.)

MODE OF ASSESSMENT OF LANDS

31. Except as otherwise provided, land shall be assessed ^{Land, where to be assessed} in the municipality in which it lies and, in the case of a municipality divided into wards, in the ward in which it lies.
R.S.O. 1950, c. 24, s. 29.

32.—(1) Land occupied by the owner shall be assessed ^{Owner-occupied land} against him.

(2) Unoccupied land the owner of which is resident in the ^{Unoccupied land of resident} municipality shall be assessed against him.

(3) Land owned by a resident in the municipality and occupied by any person other than the owner shall be assessed ^{Land of resident occupied by tenant} against the owner and the tenant.

(4) Occupied land owned by a person who is not a resident ^{Occupied land owned by non-resident} in the municipality shall be assessed against the owner, if known, and against the tenant. R.S.O. 1950, c. 24, s. 30 (1-4).

(5) Unoccupied land owned by non-residents shall be ^{Unoccupied land of non-residents} assessed in the same manner as the land of residents and, where the name of the owner cannot be ascertained, the assessor shall insert the word "non-resident" in the column in the assessment roll for the name of the owner opposite the description of the land. R.S.O. 1950, c. 24, s. 30 (5); 1956, c. 3, s. 4.

(6) Where land is owned by more persons than one, and ^{Joint owners, resident and non-resident} any one of the owners is not resident in the municipality,

(a) if the land is occupied by any person other than the owners, it shall be assessed against the tenant and against such of the owners as are known; and

(b) if occupied by any of the owners or if unoccupied, it shall be assessed against all the owners who are known.

(7) Where the land is assessed against a tenant under sub-section 4 or 6, the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed to be ^{Tenant, when to be deemed owner} the owner.

(8) Land held by a trustee, guardian, executor or administrator shall be assessed against him as owner or tenant thereof, ^{Land held by trustees, etc.} as the case may require, in the same manner as if he did not hold the land in a representative capacity; but the fact that

he is a trustee, guardian, executor or administrator shall, if known, be stated in column 6 of the roll, and such trustee, guardian, executor or administrator is only personally liable when and to such extent as he has property as such trustee, guardian, executor or administrator, available for payment of such taxes. R.S.O. 1950, c. 24, s. 30 (9-11).

Land of
transporta-
tion or
transmission
company

33. The real estate of any transportation or transmission company shall be considered as land of a resident in the municipality although the company does not have an office in the municipality. R.S.O. 1950, c. 24, s. 31.

Assessment
of Crown
lands

34.—(1) Notwithstanding paragraph 1 of section 4, the tenant of land owned by the Crown where rent or any valuable consideration is paid in respect of such land and the owner of land in which the Crown has an interest and the tenant of such land where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or the interest of the Crown was held by any other person.

(a) For the purposes of this subsection,

- (i) "tenant", in addition to its meaning under clause *o* of section 1, also includes any person who uses land belonging to the Crown as, or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use,
- (ii) "residence" means a building or part of a building used as a domestic establishment and consisting of two or more rooms in which persons usually sleep and prepare and serve meals,
- (iii) "rent or any valuable consideration" shall be deemed to have been paid, in the case of an employee using land belonging to the Crown as a residence, where there is a reduction in or deduction from the salary, wages, allowances or emoluments of the employee because of such use or where such use is taken into consideration in determining the employee's salary, wages, allowances or emoluments.

Section 52
not to apply

(2) Section 52 does not apply in respect of land owned by Her Majesty in right of Ontario or land in which Her Majesty in right of Ontario has an interest.

(3) The tenant of land held in trust for a tribe or body of Indians who is not a member of such tribe or body where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or held by any other person. ^{Assessment of Indian lands}

(4) In addition to the liability of every person assessed under subsection 1 or 3 to pay the taxes assessed against him, the interest in such land, if any, of every person other than the Crown and the tribe or body of Indians for which it is held in trust or any member thereof is subject to the lien given by section 105 and is liable to be sold or vested in the municipality for arrears of taxes. R.S.O. 1950, c. 24, s. 32. ^{Tenant's interests may be sold}

VALUATION OF LANDS

35.—(1) Subject to this section, land shall be assessed at its actual value. R.S.O. 1950, c. 24, s. 33 (1). ^{Assessment of land}

(2) Subject to subsection 3, in ascertaining the actual value of land without buildings thereon consideration shall be given to the present use, location, rental value, sale value and any other circumstance affecting the value. R.S.O. 1950, c. 24, s. 33 (2); 1955, c. 4, s. 8 (1). ^{Land without buildings}

(3) For the purposes of subsections 2 and 4, in ascertaining the sale value of farm lands used only for farm purposes by the owner thereof whose principal occupation is farming and buildings thereon used solely for farm purposes, including the residence of the owner and of his employees and their families on the farm lands, consideration shall be given to the sale value of such lands and buildings for farming purposes only and no consideration shall be given to the sale value of lands and buildings in the vicinity to which this subsection does not apply. 1960, c. 3, s. 3 (1). ^{Farm lands and buildings}

(4) Subject to subsection 3, in assessing land having buildings thereon, the value of the land and buildings shall be ascertained by giving consideration to present use, location, cost of replacement, rental value, sale value, and any other circumstance affecting the value, and the value of the buildings shall be the amount by which the value of the land is thereby increased, and the actual value of the land and the buildings so ascertained shall be set down separately in the columns of the assessment roll, and the assessment shall be the sum of such values. R.S.O. 1950, c. 24, s. 33 (3); 1955, c. 4, s. 8 (3); 1960, c. 3, s. 3 (2). ^{Land with buildings}

Certain
buildings
and minerals
not
assessable

(5) The buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant, and, subject to subsection 10, the minerals in, on or under such land are not assessable. R.S.O. 1950, c. 24, s. 33 (4).

Effect of
tax sale
or tax
certificate
registration

(6) Where land, the mining rights in which are liable for acreage tax under *The Mining Tax Act*,

(a) is sold for taxes under this Act; or

(b) is vested in a municipality or school board upon registration of a tax arrears certificate under *The Department of Municipal Affairs Act*,

R.S.O. 1960,
cc. 242, 98

on or after the 1st day of April, 1954, such sale or vesting creates a severance of the surface rights from the mining rights, and only the surface rights in the land pass to the tax sale purchaser or vest in the municipality or school board, as the case may be, and the sale or registration does not in any way affect the mining rights. 1952, c. 3, s. 8, *part*; 1954, c. 3, s. 4 (1).

before
April 1,
1954

(7) Notwithstanding subsection 6 or anything else in this or any other Act but subject to any forfeiture to the Crown legally effected under *The Mining Tax Act* or its predecessor, where land the mining rights in which were liable for acreage tax under *The Mining Tax Act* or its predecessor,

(a) was sold for taxes under this Act or its predecessor; or

(b) was vested in a municipality or school board upon registration of a tax arrears certificate under *The Department of Municipal Affairs Act* or its predecessor,

before the 1st day of April, 1954, and there had been, before the sale or registration, no severance of the surface rights from the mining rights, and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality or school board, as the case may be, such sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality or school board, as the case may be, without severance, both the surface and mining rights. 1952, c. 3, s. 8, *part*; 1954, c. 3, s. 4 (2).

Profits
from mines

(8) The profits from a mine or mineral work shall be assessed by, and the tax leviable thereon shall be paid to, the municipality in which the mine or mineral work is situate,

or, in unorganized territory, the school board or boards having jurisdiction over the area in which the mine or mineral work is situate; provided that the assessment on each oil or gas well operated at any time during the year shall be at least \$20. R.S.O. 1950, c. 24, s. 33 (5); 1960, c. 3, s. 3 (3).

(9) Every person occupying mineral land for the purpose of any business other than mining is liable to business assessment as provided by section 9. Business assessment

(10) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in the lands have been or are reserved to the grantor, such mineral rights shall be assessed at their actual value. Petroleum mineral rights

(11) Notwithstanding this section, the tax payable to a municipality upon a mine or mining work liable to taxation under section 3 of *The Mining Tax Act* is subject to the approval of the Department and shall not exceed, Tax on mine, etc., to be approved by Department R.S.O. 1960 c. 242

- (a) $1\frac{1}{2}$ per cent of the amount of the annual profits upon which the tax payable under the said section 3 is based, up to and including \$2,333,333.33; and
- (b) $2\frac{1}{2}$ per cent of the annual profits upon which the tax payable under the said section 3 is based, that are in excess of \$2,333,333.33.

(12) The taxes payable in accordance with subsection 8 or 11 shall be distributed among the bodies that would have received them had such taxes been levied in the usual way and in the same ratio. Distribution of taxes

(13) Where any estate in mines, minerals or mining rights has heretofore or may hereafter become severed from the estate in the surface rights of the same lands, whether by means of the original patent or lease from the Crown, or by any act of the patentee or lessee, his heirs, executors, administrators, successors or assigns, such estates after being so severed shall thereafter be and remain for all purposes of taxation and assessment separate estates notwithstanding the circumstances that the titles to such estates may thereafter be or become vested in one owner. Minerals and surface rights becoming vested in one owner

(14) Notwithstanding subsection 5, but subject to subsection 11, the assessment of profits from a mine or mineral work or mining work under this section shall be deemed to be real property assessment, and the taxes payable in accordance Mine assessment to be regarded as for real property

with subsection 11 upon such assessment are a lien upon all the lands in the municipality of the person liable for payment of such taxes.

Reforested
lands

(15) Land that has been planted for forestation or reforestation purposes shall not be assessed at a greater value by reason only of such planting. R.S.O. 1950, c. 24, s. 33 (6-12).

Woodlands

(16) Land used as woodlands shall not be assessed at a greater value by reason of the presence of the trees thereon nor shall it be assessed at a lesser value by reason of the removal of the trees.

Interpre-
tation

(17) In subsection 16, "woodlands" means lands having not less than 400 trees per acre of all sizes, or 300 trees measuring over two inches in diameter, or 200 trees measuring over five inches in diameter, or 100 trees measuring over eight inches in diameter (all such measurements to be taken at four and one-half feet from the ground) of one or more of the following kinds: white or Norway pine, white or Norway spruce, hemlock, tamarack, oak, ash, elm, hickory, basswood, tulip (white wood), black cherry, walnut, butternut, chestnut, hard maple, soft maple, cedar, sycamore, beech, black locust, or catalpa, or any other variety that may be designated by Order in Council, and which lands have been set apart by the owner with the object chiefly, but not necessarily solely, of fostering the growth of the trees thereon and that are fenced and not used for grazing purposes. 1954, c. 3, s. 4 (3).

Regulations,
payments to
mining
municipi-
palities

36.—(1) The Minister may make regulations,

- (a) providing for the making of payments to mining municipalities, and providing a formula or method of computing such payments;
- (b) prescribing the terms and conditions of such payments;
- (c) prescribing definitions of any word or expression, except the expression "mining municipality", whether or not used in this Act, for the purposes of the regulations;
- (d) designating municipalities as mining municipalities for the purposes of the regulations;
- (e) providing, in respect of any matter dealt with in or under the regulations, that the approval of the Minister shall be required. 1952, c. 3, s. 9, *part.*

(2) Where a municipality receives a payment in any year ^{Idem} under the regulations made under subsection 1, it shall not assess or tax the profits of any mine or mineral work under subsection 8 or 11 of section 35 in that year and the payment shall be distributed as follows:

1. The portion computed with reference to the mines profits as calculated under section 3 of *The Mining Tax Act* and set out by the mine assessor in the notice or notices of assessment referred to in section 11 of *The Mining Tax Act* in respect of any or all mines or mineral works located in the municipality shall be distributed in the manner provided in subsection 12 of section 35. ^{R.S.O. 1960, c. 242}
2. The portion computed with reference to the number of miners residing inside and working outside the municipality shall form part of the general funds of the municipality. 1953, c. 6, s. 9.

(3) Notwithstanding subsection 2, where there are no ^{Idem} mines profits calculated under section 3 of *The Mining Tax Act*, the payment shall form part of the general funds of the municipality. 1954, c. 3, s. 5.

(4) Payments made under subsection 1 shall be paid out of ^{Idem} such moneys as may be appropriated therefor by the Legislature. 1952, c. 3, s. 9, *part*.

37.—(1) In any municipality where lands held and used as farm lands only and in blocks of not less than five acres by any one person are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements, of the character hereinafter mentioned, in the municipality as other lands therein generally, the council shall annually before the 1st day of March pass a by-law declaring what part, if any, of such lands are exempt or partly exempt from taxation for the expenditures of the municipality incurred for waterworks, fire protection, garbage collection, sidewalks, pavements or sewers, or the lighting, oiling, tarring, treating for dust or watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such expenditures or any of them. ^{Exemption of farm lands from taxation for certain expenditures}

(2) The clerk shall forthwith notify by registered mail ^{Notice} each person affected by the by-law as to what exemption is provided for his lands by the by-law.

Appeal
against
by-law

(3) Any person complaining that the by-law does not exempt or sufficiently exempt him or his lands from taxation may within fourteen days after the mailing of the notice notify the clerk of the municipality of his intention to appeal against the provisions of the by-law, or any of them, to the judge of the county court who has full power to alter or vary any or all of the provisions of the by-law and to determine the matter of complaint in accordance with the spirit and intent of this section.

Appeal
where no
by-law
passed

(4) If the council fails to pass the by-law before the 1st day of March, any person affected may, on or before the 21st day of March, notify the clerk of the municipality of his intention to appeal to the judge of the county court, and the judge has full power to entertain the appeal and may make an order declaring what part, if any, of the lands of the person appealing is exempt or partly exempt from taxation, and the clerk shall prepare or amend the collector's roll in accordance with the order.

Procedure
on appeals

(5) The provisions of this Act as to appeals from a court of revision to the county judge and as to the amendment of the assessment roll thereon shall, so far as applicable, regulate and govern the procedure to be followed upon appeals under this section and the amendment of the by-law thereon.

Assessment
appeals not
affected

(6) Nothing in subsections 3, 4 and 5 shall be deemed to prevent or affect any right of appeal against an assessment.

Notice of
decision and
appeal

(7) The clerk shall cause notice of the decision on an appeal under this section to be given by registered mail to the appellant, and an appeal lies from the decision of the judge to the Ontario Municipal Board which has the powers of the judge under this section, and the provisions of section 83 apply, *mutatis mutandis*, to the appeal. 1951, c. 4, s. 1.

Exemption
of farm
lands in
police
villages

38.—(1) Section 37 applies to a police village so that farm lands situate therein may be exempted or partly exempted from taxation in the same manner, to the same extent, and for the purposes mentioned in that section.

Exemption
by-law
to be passed
by trustees
of police
village

(2) The trustees or board of trustees of a police village have power to and shall pass by-laws as provided for in section 37, and forthwith after passing the by-law shall furnish a certified copy thereof to the clerk of the township or townships in which the police village or any part thereof is situate, and all notices to be given under that section shall be given to the trustees or board of trustees of the police village instead of to the clerk of the municipality.

(3) The trustees or board of trustees of a police village shall notify the clerk of the township or townships, in which the police village or any part thereof is situate, of any decision of the judge made under section 37 forthwith after it is received.

Notice of by-law and of decisions of judge to be given to township clerk

(4) If a police village is situate in two or more counties, the judge of the county court of the county in which the larger or largest part of the police village is situate shall exercise jurisdiction for the purposes of this section.

Jurisdiction of judge where two counties affected

(5) The provisions of every by-law of a police village passed under the authority of this section, and of every decision of the judge with respect to such police village, shall be made applicable by the council of the township or townships in which the police village or any part thereof is situate in striking the rates to be levied in or for the purposes of the police village.

Application of by-law by township council in striking rates

R.S.O. 1950, c. 24, s. 36.

39.—(1) Any local municipality may enter into an agreement with the owner of a golf course for providing a fixed assessment for the land occupied as a golf course to apply to taxation for general, school and special purposes but not to apply to taxation for local improvements.

Agreement for fixed assessment for golf course

(2) Where a golf course has a fixed assessment under an agreement under subsection 1,

Duties of municipal officials:

- (a) the golf course shall be assessed each year as if it did not have a fixed assessment; assessment
- (b) the treasurer shall calculate each year what the taxes would have been on the golf course if it did not have a fixed assessment; taxes
- (c) the treasurer shall keep a record of the difference between the taxes paid each year and the taxes that would have been paid if the golf course did not have a fixed assessment and shall debit the golf course with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year 4 per cent interest on the aggregate amount of the debit on such date; and record
- (d) the taxes paid on the fixed assessment shall be distributed among the bodies for which the municipality is required to levy in the proportion that the levy for each body bears to the total levy. distribution of taxes

Agreement
to be
registered

(3) Every agreement shall be registered in the registry office or land titles office, as the case may be, in the county in which the golf course or any part thereof is located.

Termination
of agreement

(4) Any agreement may be terminated on the 31st day of December in any year upon the owner of the golf course giving six months notice of such termination in writing to the municipality and the owner shall,

(a) pay to the municipality the amount debited against the golf course including the amounts of interest debited in accordance with clause *c* of subsection 2; or

(b) require the municipality to purchase the golf course for an amount equal to the fixed assessment.

Agreement
terminated
when land
ceases to be
used as golf
course

(5) Where a golf course has a fixed assessment under an agreement under subsection 1, the agreement shall terminate when the land in respect of which the fixed assessment is given or any portion thereof ceases to be occupied for the purposes of a golf course and the owner shall comply with clause *a* or *b* of subsection 4.

Dispute

(6) Any dispute between the municipality and the owner of the golf course in relation to an agreement or this section shall be settled by the Ontario Municipal Board and the decision of the Board is final. 1955, c. 4, s. 10.

Assessment
of lands of
water, heat,
light, power
and trans-
portation
companies

40.—(1) The property by subclause *v* of clause *i* of section 1 declared to be “land” that is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating transportation systems and companies or persons distributing by pipe line natural gas, manufactured gas or liquefied petroleum gas or any mixture of any of them shall, in a municipality divided into wards, be assessed in the ward in which the head office of the company or person is situate, if the head office is situated in the municipality, but, if the head office of the company or person is not in the municipality, then the assessment may be in any ward thereof.

Application
of section

(2) This section does not apply to a pipe line as defined in section 41. 1957, c. 2, s. 6 (1).

Assessment
of works
extending
into two or
more muni-
cipalities

(3) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property. R.S.O. 1950, c. 24, s. 37 (2).

(4) In assessing such property, whether situate or not Principle of assessment situate upon a highway, street, road, lane or other public place, it shall when and so long as in actual use be assessed at its actual value in accordance with section 35. R.S.O. 1950, c. 24, s. 37 (3); 1957, c. 2, s. 6 (2).

(5) Notwithstanding any other provision of this Act, the Assessment of structures, rails, etc., of transportation system structures, substructures, superstructures, rails, ties, poles and wires of such a transportation system are liable to assessment and taxation in the same manner and to the same extent as those of a steam railway are under section 46 and not otherwise. R.S.O. 1950, c. 24, s. 37 (4).

41.—(1) In this section,

Interpre-
tation

(a) “gas” means gas as defined in *The Energy Act*; R.S.O. 1960, c. 122

(b) “oil” means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) “pipe line” means a pipe line for the transportation or transmission of gas that is designated by the Ontario Energy Board as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, regulators, couplings, cathodic protection apparatus, protective coatings, casing, curb-boxes, meters, and all incidental fastenings, attachments, appliances, apparatus and appurtenances,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) “pipe line company” means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(8) A pipe line removed from one location and reinstalled in another location shall, where depreciation is applicable, continue to be depreciated at the foregoing rates as though remaining in its original location. Pipe lines removed and installed in another location

(9) A pipe line that has been abandoned in any year ceases to be liable for assessment effective with the assessment next following the date of abandonment. Pipe lines abandoned

(10) Where a pipe line is located on, in, under, along or across any highway or any lands exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section. Liability to taxation of pipe line on exempt property

(11) Notwithstanding the other provisions of this Act or any other special or general Act, a pipe line liable for assessment and taxation under this section is not liable for assessment and taxation in any other manner for municipal purposes, including local improvements, property and business taxes; but all other land and buildings of the pipe line company liable for assessment and taxation under this or any other special or general Act continue to be so liable. Tax liability

(12) Where a pipe line extends through two or more municipalities, only the portion or portions thereof in each municipality are liable for assessment and taxation in that municipality. Assessment of pipe line extending into two or more municipalities

(13) Where a pipe line is placed on a boundary between two municipalities or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between two municipalities, although it may deviate so as in some places to be wholly or partly within either of them, such pipe line shall be assessed in each municipality for one-half of the amount assessable against it under this section. Pipe lines on municipal boundaries

(14) The assessment of a pipe line under this section shall be deemed to be real property assessment and the taxes payable by a pipe line company on the assessment of a pipe line under this section are a lien on all the lands of such company in the municipality. Real property assessment

(15) The rates set out in subsection 5 shall be reviewed by the Minister in the year 1960 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection 5. 1957, c. 2, s. 7, *part*. Review of rates

Pipes, poles,
wires, etc.,
on boundary
lines

42. Except as provided by subsection 14 of section 10, where any structure, pipe, pole, wire or other property is erected or placed upon, in, over, under or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, it shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together. R.S.O. 1950, c. 24, s. 38.

Interpre-
tation

43.—(1) In this section,

(a) “commission” means the council of a municipal corporation, or a commission or trustees or other body, operating a public utility for or on behalf of the corporation and includes a municipal parking authority established under any general or special Act;

R.S.O. 1960,
c. 98

(b) “public utility” means a public utility as defined in *The Department of Municipal Affairs Act* and includes parking facilities on land owned by a municipal corporation or by a municipal parking authority established under any general or special Act. 1952, c. 3, s. 10, *part*; 1960, c. 3, s. 4.

Property
deemed
vested in
commission

(2) For the purposes of this section, land and buildings owned by and vested in a municipal corporation and used for the purposes of a public utility shall be deemed to be vested in the commission operating the public utility. 1952, c. 3, s. 10, *part*.

Annual pay-
ments to
municipal-
ities

(3) Every commission shall pay in each year, to any municipality in which are situated lands or buildings owned by and vested in the commission, the total amount that all rates, except, subject to subsections 4 and 5, rates on business assessment, levied on the assessment for real property that is used as a basis for computing business assessment in that municipality for taxation purposes based on the assessed value of the land at the actual value thereof according to the average value of land in the locality and the assessed value of such buildings, would produce. 1952, c. 3, s. 10, *part*; 1955, c. 4, s. 11 (1); 1957, c. 2, s. 8.

Idem

(4) The commission shall also pay the amount that the current rates on business assessment on the lands or buildings

referred to in subsection 3, not including any lands or buildings referred to in subsection 5, would produce based on the applicable percentage of the assessed value provided for in subsection 3.

(5) The commission shall also pay the amount that the ^{Idem} current rates on business assessment would produce on lands and buildings owned or occupied by the commission for carrying on the business of selling by retail electrical goods, supplies or appliances.

(6) Notwithstanding section 62 of *The Local Improvement Act*, the commission shall pay local improvement assessments. ^{Local improve-ments}
1952, c. 3, s. 10, *part*. ^{R.S.O. 1960, c. 223}

(7) The payments received under subsections 3, 4 and 5 shall be credited by the municipality to the general fund of ^{Credit to municipal general fund} the municipality and for accounting purposes shall be deemed to be taxes. 1952, c. 3, s. 10, *part*; 1955, c. 4, s. 11 (2).

(8) Subject to subsections 3, 4 and 10, the property on ^{Mode of assessment, appeals} which payment is to be made under subsections 3, 4 and 5 shall be assessed according to this Act, and the provisions of this Act respecting appeals apply. 1952, c. 3, s. 10, *part*.

(9) The valuation of properties assessed under this section shall be included when equalizing assessment or apportioning ^{Valuation to be included in equalizing assessment} levies for any purpose. 1955, c. 4, s. 11 (3).

(10) In making the assessment referred to in subsection 8, ^{Exemptions} there shall be no assessment of machinery whether fixed or not nor of the foundation on which it rests, works, structures other than buildings referred to in subsection 3 or 5, substructures, superstructures, except where a substructure or superstructure forms an integral part of a building referred to in subsection 3 or 5, rails, ties, poles, towers, lines nor of any of the things excepted from exemption from taxation by paragraph 17 of section 4, nor of other property, works or improvements not referred to in subsection 3 or 5, nor of an easement or the right or use of occupation or other interest in land not owned by the commission. 1952, c. 3, s. 10, *part*; 1953, c. 6, s. 11; 1956, c. 3, s. 5 (1).

(11) Nothing in this section exempts from taxation any ^{Application} part of any works, structures, substructures or superstructures when occupied by a tenant or lessee.

(12) Notwithstanding subsection 10, telephone companies ^{Municipal telephone companies} assessed under this section shall be assessed to the same

extent as telephone companies are assessed under sections 10 to 13. 1956, c. 3, s. 5 (2).

Application
of section

(13) This section applies notwithstanding any other provision in this Act or any other general or special Act or any agreement heretofore made, and any agreement heretofore made under which a commission pays taxes, or money in lieu of taxes or for municipal services, is void. 1952, c. 3, s. 10, *part*.

Bridges
and tunnels
over inter-
national
boundary
line

44. In the case of any bridge or tunnel liable to assessment that belongs to or is in the possession of any person or corporation, and that crosses a river forming the boundary between Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens but subject to the provisions and basis of assessment set forth in subsection 4 of section 40. R.S.O. 1950, c. 24, s. 42.

Bridges
and tunnels
between
muni-
cipalities

45. Any bridge or tunnel belonging to or in possession of any person or corporation between two municipalities in Ontario shall be valued as an integral part of the whole and on the basis of valuation of the whole. R.S.O. 1950, c. 24, s. 43.

Railway
companies
to furnish
certain
statements
to muni-
cipalities

46.—(1) Every steam railway company shall transmit annually on or before the 1st day of February to the assessment commissioner or, if none, to the clerk of every municipality in which any part of the roadway or other real property of the company is situate a statement showing,

- (a) the quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year;
- (b) the vacant land not in actual use by the company and the value thereof;
- (c) the quantity of land occupied by the railway and being part of the highway, street, road or other public land (but not being a highway, street or road that is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging to or used by the company upon, in, over, under or affixed to it;

- (d) the real property, other than that referred to in clauses *a*, *b* and *c*, in actual use and occupation by the company, and its assessable value as hereinafter mentioned,

and where the clerk receives the statement he shall forward it to the assessor. R.S.O. 1950, c. 24, s. 44 (1); 1951, c. 4, s. 2.

(2) The assessor shall assess the land and property under subsection 1 as follows: Assessment of railway land

- (a) the roadway or right of way at the actual value thereof according to the average value of land in the locality; but not including the structures, substructures and superstructures, rails, ties, poles and other property thereon;
- (b) the vacant land, at its value as other vacant lands are assessed under this Act;
- (c) the structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under or forming part of any highway) upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of such property;
- (d) the real property not designated in clauses *a*, *b* and *c* in actual use and occupation by the company, at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises.

(3) Notwithstanding any other provision in this Act, the structures, substructures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except stations, freight sheds, offices, warehouses, elevators, hotels, round-houses and machine, repair and other shops) shall not be assessed. Rails, ties, poles, substructures, etc., not assessable

(4) The assessor shall deliver at, or transmit by post to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the Notice of assessment

land and property of the company in the municipality or ward showing the amount of each description of property mentioned in the above statement of the company, and the statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 17 and 48.

Exemption
from other
assessments

(5) A railway company assessed under this section is exempt from assessment in any other manner for municipal purposes except for local improvements. R.S.O. 1950, c. 24, s. 44 (2-5).

Quinquen-
nial railway
assessment

47. When an assessment has been made under section 46, the amount thereof in the roll as finally revised and corrected for that year is the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment; but at any time before the return of the assessment roll in any year the amount may be reduced by deducting therefrom the value of any land or property included in such assessment that has ceased to belong to the company, and a further assessment may be made of any additional land or property of the company not included in such assessment. R.S.O. 1950, c. 24, s. 45.

NOTICE OF ASSESSMENT

Notice of
assessment

48.—(1) The assessor or his assistant shall prior to the completion of the assessment roll for the municipality or ward, as the case may be, deliver in the manner hereinafter provided to every person named therein, except persons entered on the roll under section 24, a notice (Form 2) of the sum or sums for which such person has been assessed and such other particulars as are mentioned in the Form, and shall enter in the roll opposite the name of the person the date of delivery of the notice and the entry is *prima facie* evidence of the delivery. R.S.O. 1950, c. 24, s. 46 (1); 1952, c. 3, s. 11.

Delivery
of notice,
residents

(2) When the person assessed is resident in the municipality, the notice shall be delivered by leaving it at his residence or place of business or by mailing it addressed to him at his residence or place of business.

non-
residents

(3) When the person assessed is not resident in the municipality, the notice shall be delivered by mailing it addressed to him at his last known address.

registered
mail

(4) When a person assessed furnishes the assessor with a notice in writing giving the address to which the notice of

assessment may be delivered to him and requesting that the notice be delivered to such address by registered mail, the notice of assessment shall be so delivered, and such notice stands until revoked in writing. R.S.O. 1950, c. 24, s. 46 (2-4).

CORRECTION OF ERRORS

49. Notwithstanding the delivery or transmission of any notice provided for by section 48, the assessor at any time before the time fixed for the return of the assessment roll may correct any error in any assessment and alter the roll accordingly, and he shall do so upon notice being given to him of any error, and, upon so correcting or altering any assessment, he shall deliver or transmit to the person assessed an amended notice. R.S.O. 1950, c. 24, s. 47.

50. Where the assessment is made by wards, in case any person moves from a ward before having been assessed therein into a ward for which the assessment roll has been completed, the assessor for the last-mentioned ward may at any time before the 30th day of September amend the roll by entering therein the assessment of such person, and shall forthwith give to him the notice of assessment provided for by section 48, and the person so assessed is entitled to appeal to the county judge from the assessment within ten days from the time of giving such notice. R.S.O. 1950, c. 24, s. 48.

51. It is the duty of the clerk to report to the court of revision the facts and particulars as to any errors or omissions in the assessment roll of which he may from time to time become aware, and the court of revision shall thereupon take such steps as the court deems advisable and necessary to cause such corrections to be made in the roll, and shall give such notice to persons interested as such corrections may render necessary. R.S.O. 1950, c. 24, s. 49.

52.—(1) If at any time it appears to any officer of the municipality that land liable to assessment has been omitted from the collector's roll in whole or in part for the current year or for either or both of the next two preceding years, he shall report the omission to the clerk of the municipality; thereupon, or if the omission comes to the knowledge of the clerk of the municipality in any other manner, the clerk shall enter such land on the collector's roll as well for the arrears of the preceding year or years, if any, as for the tax on the current year, and the valuation of the land shall be the average of the three previous years, if assessed for such three years, but, if not so assessed, the clerk shall require the

assessor for the current year to value the land, and it is the duty of the assessor to do so when required, and to certify the valuation in writing to the clerk. R.S.O. 1950, c. 24, s. 50 (1); 1956, c. 3, s. 6; 1957, c. 2, s. 9 (1).

Omissions
of business
assessment

(2) If at any time it appears to any officer of the municipality that any business assessment has been omitted in whole or in part from the assessment roll for the current year or for either or both of the next two preceding years, he shall report the omission to the clerk of the municipality; thereupon, or if the omission to assess comes to the knowledge of the clerk in any other manner, the clerk shall enter such business assessment on the assessment roll from which such assessment has been omitted, and as well for the preceding year as for the current year shall enter on the collector's roll the taxes payable in respect thereto, but in respect to any assessment for a preceding year or years the taxes payable in respect thereto shall be calculated at the rates of taxation levied for such year or years. R.S.O. 1950, c. 24, s. 50 (2); 1957, c. 2, s. 9 (2).

Notice
and
appeals

(3) Where the clerk performs any of the duties required by this section, he shall, before the assessment is added to the collector's roll under subsection 1 or to the assessment roll under subsection 2, deliver to or send by registered mail to the person so taxed a notice setting out the amount of the assessment and the time within which an appeal may be made from such assessment, and the same rights in respect of appeal apply as if the building or land or business had been assessed in the usual way, but for the purposes of an appeal from an assessment under this section the assessment roll shall be deemed to have been returned on the day such assessment is added to the collector's roll under subsection 1 or to the assessment roll under subsection 2, as the case may be. 1957, c. 2, s. 9 (3).

Additions to
collector's
roll

53.—(1) The clerk of the municipality shall, after the 1st day of January and before the 28th day of November in any year, enter in the collector's roll,

- (a) the value or increase in value as the case requires, as certified by the assessor, of any building as determined by section 35 that before or after the 1st day of January is erected, altered or enlarged and that after the 1st day of January becomes occupied or reasonably fit for occupancy;
- (b) the value or increase in value as the case requires, as certified by the assessor, of any building or land or portion thereof that after the 1st day of January

ceases to be exempt from taxation or that ceases to be assessed as provided in subsection 3 of section 35; and

- (c) the name of any person who after the 1st day of January commences to occupy or use land for any business purpose mentioned in section 9, and the amount of the business assessment with respect thereto, as certified by the assessor. 1951, c. 4, s. 3, *part*; 1952, c. 3, s. 12; 1960, c. 3, s. 5.

(2) Where an entry is made in the collector's roll under this section, the amount of the taxes to be levied thereon shall be a portion of the amount of taxes that would have been levied for the current year if the assessment had been made in the usual way, and that portion shall be in the ratio that the number of months remaining in the current year after the month in which the notice provided for in subsection 4 is delivered or sent bears to the number 12, and shall be entered on the collector's roll and collected in the same manner as if the assessment had been made in the usual way. 1951, c. 4, s. 3, *part*.

(3) Where the amount of a business assessment is entered in the collector's roll under clause *c* of subsection 1, the real property with respect to which such business assessment is computed is, for the number of months remaining in the current year after the month in which the notice provided for in subsection 4 is delivered or sent, liable to taxation at the rate levied under subsection 2 of section 294 of *The Municipal Act*, and the clerk of the municipality shall amend the collector's roll accordingly. 1959, c. 6, s. 4 (1).

(4) Where an entry is made or is to be made in the collector's roll under this section, the assessor shall, before the assessment is added to the collector's roll, deliver to or send by registered mail to the person to be taxed a notice setting out the amount of the assessment and, where applicable, the amount of the assessment of real property liable to taxation under subsection 3, and the time within which an appeal may be made from such assessment, and the same rights in respect of appeal lie as if the assessment had been made in the usual way, but for the purposes of an appeal made from an assessment under this section the assessment roll shall be deemed to have been returned on the day such assessment is added to the collector's roll. 1957, c. 2, s. 10; 1959, c. 6, s. 4 (2).

Distribution

(5) Where taxes are levied under this section,

- (a) the amount thereof that, if the taxes had been levied in the usual way, would have been paid to any body, for which the council is required by law to levy rates or raise money, shall be set up in the accounts of the municipality as a credit accruing to that body in the same proportion as the levy for that body bears to the total levy;
- (b) the amount credited to a body under clause *a* shall be paid over to such body not later than the 31st day of December in the year in which it was levied and shall be used by such body to reduce the levy for the purposes of such body in the next succeeding year, and, if the amount or any portion thereof is not paid over to such body on or before the 31st day of December in the year in which it was levied, the municipality so in default shall, if demanded by such body, pay interest thereon to such body at the rate of 6 per cent per annum from such date until payment is made;
- (c) the balance remaining after the setting up of all credits as provided in clause *a* shall be taken into the general funds of the municipality;
- (d) notwithstanding clauses *a* and *b*, where in a high school district a municipality is required under an agreement to pay over to the high school board a fixed annual percentage of the costs of the erection or maintenance of a school or schools, it is not necessary for the municipality to pay over an amount to the high school board as required by clauses *a* and *b*, but the municipality shall set up a credit of the amounts that would but for this clause have been paid over to the board, which credit shall be used to reduce the levy for the board in the following year. 1951, c. 4, s. 3, *part*; 1955, c. 4, s. 12 (2, 3); 1956, c. 3, s. 7; 1958, c. 4, s. 3 (1).

Treasurer's
statement

(6) Where taxes are levied under this section, the treasurer shall deliver to each of the bodies entitled to a credit under clause *a* of subsection 5 on or before the 31st day of December in the year in which the taxes were levied a statement sufficient to enable the body to determine the correctness of the credit. 1958, c. 4, s. 3 (2).

54.—(1) The clerk of the municipality shall, after the return of the assessment roll and on or before the 31st day of December in any year, add to the assessment roll, at the end thereof,

- (a) the value or increase in value as the case requires, as certified by the assessor, of any building as determined by section 35 that after the return of the roll is erected, altered or enlarged and as erected, altered or enlarged is occupied or reasonably fit for occupancy;
- (b) the value or increase in value as the case requires, as certified by the assessor, of any building or land or portion thereof that after the return of the roll ceases to be exempt from taxation or that ceases to be assessed as provided in subsection 3 of section 35; and
- (c) the name of any person who after the return of the roll commences to occupy or use land for any business purpose mentioned in section 9, and the amount of the business assessment with respect thereto, as certified by the assessor. 1951, c. 4, s. 3, *part*; 1952, c. 3, s. 13; 1960, c. 3, s. 6.

(2) Where real property in any year becomes liable to taxation under subsection 3 of section 53, the clerk of the municipality shall amend accordingly the assessment roll prepared in that year. 1959, c. 6, s. 5 (1).

(3) Where an addition or amendment is made to the assessment roll under this section, the assessor shall, before the assessment is added to the roll or the roll is amended, deliver to or send by registered mail to the person assessed a notice setting out the amount of the assessment and, where applicable, the amount of the assessment of real property liable to taxation under subsection 3 of section 53, and the time within which an appeal may be made from such assessment, and the same rights in respect of appeal lie as if the assessment had been made in the usual way, but for the purposes of appeal from an assessment under this section the assessment roll shall be deemed to have been returned on the day such assessment is added to the assessment roll or the roll is amended. 1959, c. 6, s. 5 (2).

(4) Notwithstanding section 57, where additions or amendments are made to an assessment roll under this section, the last revised assessment roll shall,

- (a) for the purpose of apportioning a tax levy or fixing and levying the rate of taxation in any year, be

deemed to include the assessments added or amended under this section; and

- (b) for the purpose of equalizing assessments between municipalities in a county, be deemed to include the assessments added under subsection 1. 1959, c. 6, s. 5 (3).

Assessor
to make
inquiries
so as to
prevent
creation of
false votes

55.—(1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered or named in such assessment roll, as entitled to be a voter, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed or to be entered or named in the roll as entitled to be a voter, the assessor shall make reasonable inquiries before assessing, entering or naming any such person in the assessment roll.

Persons
entitled to
be assessed,
etc., to be
entered on
roll without
request

(2) Any person entitled to be assessed, or to have his name inserted or entered in the assessment roll of a municipality, shall be so assessed or shall have his name so inserted or entered without any request in that behalf, and a person entitled to have his name so inserted or entered in the assessment roll, or in the list of voters based thereon, or to be a voter in the municipality, has, in order to have the name of any other person entered or inserted in the assessment roll or list of voters, as the case may be, the same right to apply, complain or appeal to a court or a judge in that behalf as such other person would or can have personally, unless such other person actually dissents therefrom. R.S.O. 1950, c. 24, s. 52 (1, 2).

Penalty for
wrongfully
inserting
names in
roll

(3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1950, c. 24, ss. 52 (3), 232.

(4) In this section, "voter" means voter as defined in *The Voters' Lists Act*. 1955, c. 4, s. 14.

Interpretation
R.S.O. 1960,
c. 420

TIME FOR ASSESSMENT AND RETURN OF ROLL

56.—(1) Except as provided in subsections 2 and 3, in every municipality the assessment shall be taken yearly between the 1st day of January and the 30th day of September and the assessment roll shall be returned to the clerk not later in the same year than the 1st day of October.

Time for
yearly
assessment
and return
of assess-
ment roll

(2) The council of a municipality may by by-law provide that the assessment shall be taken between the 1st day of January and such day thereafter as is named in the by-law and that the assessment roll shall be returned to the clerk not later in the same year than the day named in the by-law, but the day named for return of the assessment roll shall be not earlier than the 1st day of July and not later than the 1st day of October in the same year. R.S.O. 1950, c. 24, s. 53 (1, 2).

Authority to
expedite
return of
assessment
roll

(3) The council of a municipality divided into wards or, where there are no wards, divided into not less than ten polling subdivisions may by by-law provide that the assessment shall be taken and the assessment roll returned to the clerk by wards or divisions of wards or, where there are not wards, by separate specified groupings of polling subdivisions, each group comprising not less than two polling subdivisions; and the by-law shall fix prior and separate periods, dates and times for taking the assessment, for return to the assessment roll and for assessment appeals to the court of revision, in respect of each ward or division of a ward or each group of polling subdivisions, as the case may be, but in no case shall,

Special mode
for yearly
assessment
by wards or
polling sub-
division
groups

- (a) the time named for return of any of the assessment rolls be later than the 1st day of October;
- (b) the period named for assessment appeals to the court of revision be less than fourteen days or more than thirty days from the day on which the relevant assessment roll is returned;
- (c) the time fixed for hearing any assessment appeal by the court of revision be earlier than ten days from the day upon which the appeal may last be made or be later than the 30th day of November. R.S.O. 1950, c. 24, s. 53 (3); 1960, c. 3, s. 7.

Application
of section 72

(4) The provisions of section 72 so far as they are not inconsistent with the provisions of a by-law passed under subsection 3 apply to appeals to the court of revision.

By-laws to
have con-
tinuing
effect

(5) A by-law passed under subsection 2 or 3 remains in force from year to year until repealed. R.S.O. 1950, c. 24, s. 53 (4, 5).

Special
extension
of time for
return of
assessment
roll

(6) Where in any year it appears to the council of a municipality that the assessment roll or the assessment roll of any ward, division of a ward or group of polling subdivisions will not be returned to the clerk by the 1st day of October, the council may, by by-law approved by the Department on or before the 1st day of October, extend the time for return of that assessment roll for such period, not exceeding sixty days, subsequent to the 1st day of October as appears necessary; provided that, when such a by-law is passed, the time for closing the court of revision for that year shall be extended for a period corresponding to that for which the time for return of the assessment roll has been extended. R.S.O. 1950, c. 24, s. 53 (6); 1951, c. 4, s. 4 (1); 1955, c. 4, s. 15; 1957, c. 2, s. 12.

Time of
passing and
approval

(7) No by-law passed under subsection 6 is valid unless it is both passed by the council and approved by the Department on or before the 1st day of October, 1951, c. 4, s. 4 (2).

Time for
closing
court of
revision

(8) Except as provided in subsection 6, in every municipality the court of revision shall hear and dispose of all appeals and certify the assessment roll in every year on or before the 30th day of November. R.S.O. 1950, c. 24, s. 53 (8).

Extension
of time
for closing
court of
revision

(9) Where in any year it appears to the council of a municipality that the court of revision will not dispose of the appeals within the required time, the council may by by-law extend the time for closing the court of revision for such period, not exceeding sixty days, as appears necessary. 1952, c. 3, s. 14.

Where
county
court of
revision
established

(10) Notwithstanding subsection 3 or 8 and except as provided in subsection 6, in any county where a county court of revision has been established the time for hearing and disposing of all appeals and certifying the assessment roll of any municipality forming part of the county for municipal purposes is the 15th day of January in the year following that in which the assessment roll was returned.

Special Act
superseded

(11) Where a special Act conflicts with this section, this section prevails. R.S.O. 1950, c. 24, s. 53 (9, 10).

57.—(1) The yearly assessment roll of a municipality last returned to the clerk, when corrected, revised and certified by the court of revision, is for all purposes the last revised assessment roll of the municipality.

(2) Where in a municipality the assessment roll is returned by wards or divisions of wards or by groups of polling subdivisions, as provided for in subsection 3 of section 56, the assessment rolls of all the wards or divisions of wards or of all the groups of polling subdivisions last returned to the clerk, when corrected, revised and certified by the court of revision, are for all purposes the last revised assessment roll of the municipality.

(3) Where in a municipality no appeals are made to the court of revision and the time for appealing has elapsed, the assessment roll shall be presented by the clerk to the court of revision to be certified, and the assessment roll as so certified is for all purposes the last revised assessment roll of the municipality.

(4) In every municipality the rate of taxation for each year shall be fixed and levied on the assessment taken in the preceding year according to the last revised assessment roll thereof. R.S.O. 1950, c. 24, s. 54 (1-4).

(5) Notwithstanding subsection 4, the council of a municipality may fix and levy the rate of taxation on the assessment taken in the preceding year according to the assessment roll as returned. 1954, c. 3, s. 6, *part*.

(6) Nothing in this section in any way deprives any person of any right of appeal provided for in this Act, and the same may be exercised and the appeal proceeded with in accordance with this Act, notwithstanding that the assessment roll has been certified by the court of revision and become the last revised assessment roll. R.S.O. 1950, c. 24, s. 54 (5); 1954, c. 3, s. 6, *part*.

(7) Where as the result,

(a) of an appeal to the county judge or the Ontario Municipal Board;

(b) of an action or other proceeding in the Supreme Court or a county court or in the Supreme Court of Canada; or

Adjustment
of taxes as
result of
appeal

Last revised
assessment
roll

Last revised
assessment
roll where
assessment
taken by
wards, etc.

Last revised
assessment
roll where
no appeals
are made

Taxation
to be levied
on last
revised
assessment
roll

Taxation on
assessment
roll as
returned

Rights of
appeal
preserved

(c) of an appeal to the court of revision with respect to an assessment made under section 52, 53 or 54,

any assessment is added, reduced, increased or otherwise altered, the taxes levied and payable with respect to such assessment shall be adjusted accordingly and, if the taxes levied have been paid, any overpayment shall be refunded by the municipality. 1954, c. 3, s. 6, *part*; 1956, c. 3, s. 9; 1957, c. 2, s. 13.

Special Act
superseded

(8) Where a special Act conflicts with this section, this section prevails. R.S.O. 1950, c. 24, s. 54 (7).

Assessment
of annexed
areas

58.—(1) Where any land is detached from one municipality and annexed to another municipality after the return of the assessment roll of the latter municipality, the council of the latter municipality shall pass a by-law in the year in which taxation is to be levied on that assessment roll adopting the assessments of the lands annexed, as last revised while they were part of the first-mentioned municipality, as the basis of the assessment of such lands for taxation in that year by the municipality to which the lands are annexed.

Notice of
assessment
and appeals

(2) The clerk of the municipality, forthwith after the passing of the by-law under subsection 1, shall deliver or send by registered mail to every person assessed in respect of the lands annexed a notice setting out the amount of the assessment, and the same rights in respect of appeal apply as if the assessment had been made in the usual way notwithstanding that the person assessed did not appeal, or notwithstanding the disposition of any appeal taken, as the case may be, in respect of the assessment while the lands were a part of the municipality from which they became detached. 1951, c. 4, s. 5.

Application
where
annexation
order
provides for
assessment

(3) This section does not apply where an annexation order otherwise provides for the assessment of the lands annexed by such order. 1956, c. 3, s. 10.

Affidavit to
be attached
to roll

59.—(1) Upon completion of the assessment roll, the assessment commissioner or assessor shall attach thereto his affidavit or solemn affirmation.

Making
affidavit

(2) The affidavit or affirmation (Form 3) may be made before the clerk of the municipality, a justice of the peace having jurisdiction in the municipality, a commissioner for taking affidavits or a notary public.

(3) The assessment commissioner or assessor shall on or before the day fixed for the return of the assessment roll deliver it to the clerk of the municipality completed and added up, with the affidavit attached, and the clerk shall, immediately upon receipt of the roll, file it in his office, and it shall be open to inspection during office hours. Roll to be delivered to clerk

(4) The omission to attach to the assessment roll the affidavit or solemn affirmation required by subsection 1 does not invalidate the roll. Omission to attach affidavit R.S.O. 1950, c. 24, s. 56.

60.—(1) Any municipality instead of ascertaining the values of all lands in the municipality every year may by Rotary system by-law provide for a two-year or three-year rotary system of ascertaining such values under which the assessor shall ascertain in one year the values of lands in one-half of the municipality and in the following year the values in the other one-half, or in one year the values in one-third of the municipality and in the following year the values in a second one-third and in the following year the values in the third one-third.

(2) When a municipality first adopts the rotary system of ascertaining values of lands therein as provided in subsection 1, the system shall for the purpose of assessment become effective in the second year in the case of a two-year system and in the third year in the case of a three-year system and in the meanwhile the assessments of all such lands shall be entered on the yearly assessment roll or rolls at the values last ascertained before the system was adopted, except that the assessment of any such land may include in any year the value of any building not previously assessed that has been erected or placed on such land or the amount by which the value of any building that has been assessed is increased by any enlargement or alteration thereof. Where rotary system first adopted R.S.O. 1950, c. 24, s. 57.

COURT OF REVISION

61.—(1) Subject to sections 62 and 63, in every city the court of revision shall consist of three members, one of whom shall be appointed by the city council and one by the mayor, and the third shall be the official arbitrator appointed for the City under *The Municipal Arbitrations Act*, and in the case of cities where there is no official arbitrator or where such official arbitrator is a judge or junior judge of the county in which the city is situated, the sheriff of the county shall be the third member in the case of a city that is the county town, and the third member of the court of revision in any Court of revision in cities, how constituted R.S.O. 1960, c. 250

city that is not the county town and for which no such official arbitrator has been appointed or where such official arbitrator is a judge or junior judge of the county in which the city is situated shall be appointed by the council of the city.

Payment of members

(2) Each member of the court of revision for a city shall be paid such sum for his services as the council may by by-law or resolution provide.

Certain persons disqualified

(3) No member of the city council and no officer or employee of the city corporation shall be a member of the court of revision.

Appointment of members

(4) The appointed members of the court of revision shall hold office until their successors are appointed, but the mayor or council may each or either of them, after the organization of a new council and before the 1st day of March in any year, appoint a member of the court of revision in place of any member appointed by the mayor or council in a preceding year.

Quorum

(5) Two members of any court of revision under this section form a quorum, and upon the death or resignation of any member of any such court a successor shall immediately thereafter be appointed by the authority that appointed the member so dying or resigning.

Filling vacancies

(6) In case of a vacancy in the office of sheriff, or if the sheriff is unable to act from any cause in cities where there is no official arbitrator, the registrar of deeds for the county or registry division of the county whose office is in such city shall act as the third member of the court during such vacancy or inability of the sheriff to act. R.S.O. 1950, c. 24, s. 58.

Constitution of court in city over 200,000

62.—(1) In a city having a population of not less than 200,000, the court of revision shall consist of one member only, appointed by the council of the city, who shall be a barrister of at least ten years standing at the bar of Ontario, but who shall not be a member of the city council or an officer or employee of the city corporation.

Name of member

(2) Such member shall be known as "The Commissioner of the Court of Revision" and shall hold office during the pleasure of the council.

Illness or absence of commissioner

(3) In case of the illness or absence from Ontario of such commissioner, the council may appoint another person possessing the like qualifications to act during such illness or absence, and pending such appointment the commissioner may appoint such a person to act as his deputy for a period not exceeding two weeks.

(4) The commissioner may also from time to time appoint another person possessing like qualifications to act as his deputy for a period not exceeding one month, and such person when so acting has all the powers of the commissioner and shall be paid such sum for his services as the council may by by-law or resolution provide.

(5) The council may from time to time divide the court of revision into two or more divisions, and in such case each division shall consist of one member to whom all the provisions of this section apply *mutatis mutandis*. R.S.O. 1950, c. 24, s. 59.

63.—(1) In a city having a population of not less than 200,000, in lieu of the court of revision being constituted as provided in section 62, the council may by by-law constitute one or more courts of revision each of which shall consist of one or three members, as the by-law may provide.

(2) Every member of a court of revision shall be appointed by by-law and hold office during pleasure of the council.

(3) No person who is or during the preceding year was a member of the city council or an officer or employee of the corporation may be appointed or hold office as a member of a court of revision.

(4) Where a court of revision consists of three members, two form a quorum.

(5) Each member of the court of revision shall be paid such sum for his services as the council may by by-law provide.

(6) A by-law passed under subsection 1 remains in force from year to year until it is repealed and while it is in force no court of revision shall be constituted or continue in existence under section 62. R.S.O. 1950, c. 24, s. 60.

64.—(1) In municipalities other than cities, the court of revision shall consist of five members appointed by the council of the municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide.

(2) Every such member shall be a person eligible to be elected a member of the council, or shall be a member of the council.

Quorum

(3) Three members of the court of revision are a quorum and a majority of a quorum may decide all questions before the court; but no member shall act when an appeal is being heard respecting any property in which he is directly or indirectly interested. R.S.O. 1950, c. 24, s. 61.

County court of revision

65.—(1) Where a county assessor is appointed under section 93, the council of the county may establish a county court of revision to act in lieu of the court of revision referred to in section 64 on assessment appeals, but the county court of revision shall not deal with applications under section 131, 143, 145 or 244 of this Act or appeals under any other Act. 1952, c. 3, s. 15; 1958, c. 4, s. 4.

Members

(2) Such court of revision shall consist of five members to be appointed by the council of the county and such members shall hold office during pleasure of the council and shall be paid such remuneration and expenses as the council may by by-law provide.

Idem

(3) Each member of such court of revision shall be a person eligible to be elected a member of the council of a municipality within the county for municipal purposes, but shall not be a member of any such council.

Powers and duties

(4) The provisions of this Act applicable to a court of revision appointed under section 64 apply to a court of revision appointed under this section. R.S.O. 1950, c. 24, s. 62 (2-4).

Oath of members of court of revision

66. Every member of the court of revision before entering upon his duties shall take and subscribe before the clerk of the municipality the following oath (or affirmation in cases where, by law, affirmation is allowed):

"I,, do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals of the court of revision, that may be brought before me for trial as a member of the court."

R.S.O. 1950, c. 24, s. 63.

Clerk to keep record of decisions

67. The clerk of the municipality or some person or persons designated by him shall be the clerk of the court, and shall keep in a book a record of the proceedings and decisions of the court, which shall be certified by the chairman of the court. R.S.O. 1950, c. 24, s. 64; 1955, c. 4, s. 16.

Meetings of court

68. The court may meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the head of the municipality; but the first sitting shall not be held

until after the expiration of at least ten days from the expiration of the time within which notice of appeals may be given to the assessment commissioner or the clerk of the municipality. R.S.O. 1950, c. 24, s. 65, *amended*.

69. At the time or times appointed, the court shall meet and try all complaints in regard to persons wrongly placed upon or omitted from the roll, or assessed at too high or too low a sum. R.S.O. 1950, c. 24, s. 66. Court to try all complaints, etc.

70. The court, or some member thereof, may administer an oath to any party or witness before his evidence is taken, and may issue a summons to any witness to attend such court. R.S.O. 1950, c. 24, s. 67. May administer oaths, etc.

71. Any person summoned to attend the court of revision or before a county judge under this Act as a witness who fails, without good and sufficient reason, to attend, having first been tendered compensation for his time at the rate of \$3 per day and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1950, c. 24, ss. 68, 232. Penalty for failure to attend as witness

PROCEEDINGS FOR THE TRIAL OF COMPLAINTS

72.—(1) Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll or as having been undercharged or overcharged by the assessor in the roll, may personally or by his agent give notice in writing to the assessment commissioner or, if none, to the clerk of the municipality that he considers himself aggrieved for any or all of the causes aforesaid, and shall give a name and address where notices can be served by the clerk of the municipality as hereinafter provided. Notice of complaint by person aggrieved

(2) The notice shall be given to the assessment commissioner or, if none, to the clerk of the municipality within fourteen days after the day upon which the roll is required by law to be returned, or within fourteen days after the return of the roll, in case the roll is not returned within the time fixed for that purpose. Time within which notices of appeal to the court are to be given

(3) If a person assessed thinks that any person has been assessed too low or too high or has been wrongly inserted in or omitted from the roll, he may, within the time limited by subsection 2, give notice in writing to the assessment commissioner or, if none, to the clerk of the municipality, and the When elector thinks any person assessed at too low or too high a rate

clerk of the municipality shall give notice to such person and to the assessor of the time when the matter will be tried by the court of revision, and the matter shall be decided in the same manner as complaints by a person assessed with regard to his own assessment. 1959, c. 6, s. 6 (1).

Affidavit as to temporary absence to be received by court of revision as evidence

(4) In the case of a town, village or township, the court of revision shall receive as evidence of an application to have the name of any person entered on the roll who is temporarily absent from the municipality an affidavit (Form 4) of some other person who has and deposes that he has personal knowledge of the matter set forth in the affidavit, if the affidavit is made not earlier than the tenth day next preceding the last day for making complaints to the court of revision and is delivered to the clerk of the municipality before the time for making complaints has expired. R.S.O. 1950, c. 24, s. 69 (4); 1959, c. 6, s. 6 (2).

Clerk to give notice by posting up list

(5) The clerk of the municipality shall post up in some convenient and public place within the municipality or ward a list of all complainants, on their own behalf, against the assessor's return, and of all complainants on account of the assessment of other persons, stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the court will be held to hear the complaints. R.S.O. 1950, c. 24, s. 69 (5); 1959, c. 6, s. 6 (3).

Alteration of roll only on complaint

(6) No alteration shall be made in the roll unless under a complaint formally made according to the above provisions. R.S.O. 1950, c. 24, s. 69 (6).

Order of hearing appeals

(7) The clerk of the municipality shall enter the appeals on the list in the sequence of the assessment roll numbers, and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1950, c. 24, s. 69 (7); 1954, c. 3, s. 7; 1959, c. 6, s. 6 (4).

Form of list of appeals

(8) Such list may be in the following form:

Appeals to be heard at the Court of Revision to be held at			
.....on the.....day of....., 19.....			
Appellant.	Respecting whom.	Matter complained of.	
A.B.	Self	Overcharged on land.	
C.D.	E.F.	Name omitted.	
G.H.	J.K.	Not <i>bona fide</i> owner or tenant.	
&c.	&c.		

R.S.O. 1950, c. 24, s. 69 (8).

(9) The clerk of the municipality may also advertise in some newspaper having general circulation in the municipality the time at which the court will hold its first sitting for the year, and the advertisement shall be published at least ten days before the time of such first sitting. R.S.O. 1950, c. 24, s. 69 (9); 1955, c. 4, s. 17 (1); 1959, c. 6, s. 6 (5). Clerk, may advertise sittings of court

(10) The clerk of the municipality shall also cause to be left at the residence or office of each assessor a list of all the complaints respecting his roll. R.S.O. 1950, c. 24, s. 69 (10); 1959, c. 6, s. 6 (6). to leave a list with assessor

(11) The clerk of the municipality shall prepare a notice according to the following form for each person with respect to whom a complaint has been made: to prepare notice to parties concerned

Take notice that the Court of Revision will sit at..... on the.....day of....., in the matter of the following appeal.

Appellant.....

Subject:—That you are not the *bona fide* owner or tenant, or are overcharged in assessment on.....
(as the case may be).

(Signed) X.Y.,

To J.K. or J.S.

Clerk.

and he shall also notify each person who has made a complaint of the date of the sitting of the court. R.S.O. 1950, c. 24, s. 69 (11); 1959, c. 6, s. 6 (7).

(12) If the person resides or has a place of business in the municipality, the clerk of the municipality shall cause the notice to be left at the person's residence or place of business or sent by mail addressed thereto. R.S.O. 1950, c. 24, s. 69 (12); 1959, c. 6, s. 6 (8). Manner of service

(13) If the person is not known, then the notice shall be left with some grown-up person on the assessed premises, if there is any such person there resident, or, if the person is not resident in the municipality, then the notice shall be addressed to such person through the post office. R.S.O. 1950, c. 24, s. 69 (13). How absentees served

(14) Every notice hereby required whether by publication, advertisement, letter or otherwise shall be completed at least ten days before the sitting of the court, and the clerk of the municipality shall certify to the court, at the first day of its sitting, the notices that have been so completed. R.S.O. 1950, c. 24, s. 69 (14); 1959, c. 6, s. 6 (9). When notice to be completed

(15) Where necessary, the clerk of the municipality may, at the cost of the municipality, call to his aid such assistance as may be required to effect the services that he is required Clerk may require assistance in making services

by law to make and, in the event of his failure to effect such services in time for the first sitting of the court, the court, in its discretion, may appoint an adjourned sitting for the purpose of hearing the appeals for which the services were not effected in time for the first day, and the proper services shall be made for such adjourned day. R.S.O. 1950, c. 24, s. 69 (15).

Proceedings

(16) The court, after hearing the complainant and the assessor or assessors and any evidence adduced and, if deemed desirable, the person complained against, shall determine the matter and confirm or amend the roll accordingly, and the court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed, and in all cases that come before the court it may increase the assessment or change it by assessing the right person, the clerk of the municipality giving the latter or his agent ten days notice of such assessment, within which time he must appeal to the court if he objects thereto. R.S.O. 1950, c. 24, s. 69 (16); 1958, c. 4, s. 5; 1959, c. 6, s. 6 (10).

Oaths of
certain
parties not
necessary

(17) It is not necessary to hear upon oath the complainant or assessor or the person complained against, except where the court deems it necessary or proper or where the evidence of the person is tendered on his own behalf or required by the opposite party.

When to
proceed
ex parte

(18) If either party fails to appear, either in person or by an agent, the court may proceed *ex parte*.

Correction
of errors

(19) Where it appears that there are palpable errors in the roll of any municipality or of any ward that need correction, the court may at any time during its sitting correct the roll, if no alteration of assessed values is involved, and, if any alteration of assessed value is necessary, the court may extend the time for making complaints for ten days from a day named by the court and may then meet and determine the additional matter complained of, and the assessor may be or may be directed by the court to be, for such purpose, the complainant. (*See also section 49.*)

Procedure
upon
appeals

(20) Upon an appeal upon any ground against an assessment, the court of revision may reopen the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made and the person or persons who should be assessed therefor may be placed upon the roll by the court, and if necessary the roll of any particular ward or

subdivision of the municipality, even if returned as finally revised, may be opened so as to make it correct in accordance with the finding of the court. R.S.O. 1950, c. 24, s. 69 (17-20).

(21) The clerk of the municipality shall forthwith alter and amend the assessment roll in accordance with the decisions of the court of revision, and shall write his name or initials against every alteration or amendment. R.S.O. 1950, c. 24, s. 69 (21); 1959, c. 6, s. 6 (11). Alteration of roll by clerk

(22) When the court of revision has heard and decided an appeal, the clerk of the municipality shall within fourteen days cause notice of the decision in such appeal to be given by registered mail to the persons to whom notice of the hearing of such appeal was given and such notice shall state thereon that such decision may be appealed to the county judge within ten days of the mailing of the notice. R.S.O. 1950, c. 24, s. 69 (22); 1955, c. 4, s. 17 (2); 1959, c. 6, s. 6 (12). Notice of decision

73. The roll as finally revised and certified by the court of revision shall, subject to subsections 6 and 7 of section 57, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 48, or the omission to deliver or transmit such notice, provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice do not apply to any person who has given the clerk of the municipality or assessment commissioner the notice provided for in subsection 4 of section 48. R.S.O. 1950, c. 24, s. 70; 1959, c. 6, s. 7. Roll to be binding notwithstanding errors in it or in notice sent to persons assessed

74. A copy of any assessment roll, or portion of any assessment roll, written or printed, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court of justice without proof of the signature, or the production of the original assessment roll of which such certified copy purports to be a copy, or a part thereof. R.S.O. 1950, c. 24, s. 71; 1956, c. 3, s. 11. Copy of assessment roll duly certified to be evidence

APPEALS FROM THE COURT OF REVISION

75.—(1) An appeal to the county judge lies, at the instance of the municipal corporation, or at the instance of the assessor or assessment commissioner, or at the instance of any person assessed or of any municipal elector of the municipality, not only against a decision of the court of revision on an appeal to that court, but also against any omission, neglect or refusal of that court to hear or decide an appeal. R.S.O. 1950, c. 24, s. 72 (1). Appeal lies from decision or refusal to decide

Notice of
appeal to
assessment
commis-
sioner or
clerk

(2) The person appealing shall personally or by his agent give notice in writing to the assessment commissioner or, if none, to the clerk of the municipality within ten days after notice of the decision of the court of revision has been given by the clerk of the municipality under subsection 22 of section 72 of his intention to appeal to the county judge. 1959, c. 6, s. 8 (1).

Where
by-law
under s. 56,
subs. 3,
in force

(3) In any municipality in which a by-law has been passed under subsection 3 of section 56, the provisions of this section, so far as they are not inconsistent with the provisions of such by-law, apply to appeals to the county judge. R.S.O. 1950, c. 24, s. 72 (3).

Day and
place for
hearing

(4) The clerk of the municipality shall, immediately after the time limited for filing appeals, forward a list thereof to the judge who shall then notify the clerk of the municipality of the day he appoints for the hearing thereof and shall, if in his opinion the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such court within the municipality from the court of revision of which such appeal is made, or at the place nearest thereto where the sittings of the division court within his jurisdiction are held. R.S.O. 1950, c. 24, s. 72 (4); 1959, c. 6, s. 8 (2).

Clerk to
notify
parties

(5) The clerk of the municipality shall thereupon give notice to all the appellants and all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 72; but in the event of failure by the clerk of the municipality to have the required service of the notices in any appeal made, or to have the same made in proper time, the judge may direct service to be made for some subsequent day upon which he may sit. R.S.O. 1950, c. 24, s. 72 (5); 1959, c. 6, s. 8 (3).

List of
appellants,
etc., to be
posted up
by clerk

(6) The clerk of the municipality shall cause a notice to be posted up in a conspicuous place in his office, or the place where the council of the municipality holds its sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together with the date at which a court will be held to hear appeals.

Clerk of
court

(7) The clerk of the municipality is the clerk of such court, and he shall keep, in the book referred to in section 67, a record of the decision of the judge upon each appeal. R.S.O. 1950, c. 24, s. 72 (6, 7).

(8) At the court so held, the judge shall hear the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that, subject to any special Act affecting a particular municipality, all appeals are determined not later than the 30th day of January in the year following that in which the appeals were made. R.S.O. 1950, c. 24, s. 72 (8); 1959, c. 6, s. 8 (4).

(9) Where the assessment is taken and the assessment roll is returned by wards or divisions of wards or by groups of polling subdivisions in any municipality, the county judge shall arrange from time to time throughout the year to sit and hear appeals from the court of revision upon the determination of appeals made to the court with respect to each roll, but so that all appeals are determined not later than the 30th day of January in the year following that in which the appeals were made. R.S.O. 1950, c. 24, s. 72 (9); 1959, c. 6, s. 8 (5).

(10) Where in any county a county court of revision has been constituted, the time for the judge to determine appeals from such court shall not be later than the 15th day of March in the year following that in which the appeals to such court were made. R.S.O. 1950, c. 24, s. 72 (10); 1959, c. 6, s. 8 (6).

(11) Where in any year the time for closing the court of revision in a municipality is extended under subsection 6 or 9 of section 56, the time for the judge to determine appeals is correspondingly extended. R.S.O. 1950, c. 24, s. 72 (11); 1952, c. 3, s. 16.

(12) Where the judge dies or becomes incapable before hearing an appeal or determining an appeal, the clerk of the municipality shall forthwith notify in writing the succeeding judge or acting judge of the appeal and such judge shall hear and determine such appeal, and the times for determining the appeals under subsections 8, 9 and 10 do not apply. 1959, c. 6, s. 8 (7).

(13) A subpoena to compel the attendance of any witness required before the county judge upon any appeal under this Act may be issued by the clerk of the county court of the county in which is situated the municipality whose assessment roll is in question, and the subpoena shall be tested as are other subpoenas issued out of the county court of the county in actions therein and may be entitled as is provided in section 78. R.S.O. 1950, c. 24, s. 72 (12).

Assessment
roll to be
produced to
the court

76. At the court to be held by the county judge to hear the appeals hereinbefore provided for, the person having charge of the assessment roll passed by the court of revision shall appear and produce such roll and all papers and writings in his custody connected with the matter of the appeal. R.S.O. 1950, c. 24, s. 73; 1951, c. 4, s. 6.

Powers of
judge sitting
in appeal
from court
of revision

77.—(1) In all proceedings before the county judge under or for the purposes of this Act, the judge possesses all such powers for compelling the attendance of and for the examination on oath of all parties, whether claiming or objecting or objected to, and of all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him in the county court.

Appeal to
county
judge
where
question
of fact
involved

(2) The hearing of the appeal by the county judge shall, where questions of fact are involved, be in the nature of a new trial, and either party may adduce further evidence in addition to that heard before the court of revision, subject to any order as to costs or adjournment that the judge may consider just. R.S.O. 1950, c. 24, s. 74.

Style of
proceedings

78. All process or other proceedings by way of appeal may be entitled as follows:

In the Matter of Appeal from the Court of Revision of
the.....of.....

....., Appellant,
and
....., Respondent,

and they need not be otherwise entitled. R.S.O. 1950, c. 24, s. 75.

Costs to be
apportioned
by the judge
and how
enforced

79. The costs of any proceeding before the court of revision or before the judge as aforesaid shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit, and where costs are ordered to be paid by any party claiming or objecting or objected to, or by any assessor, clerk of a municipality, or other person, payment thereof shall be enforced, when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge by execution to be issued as the judge may direct, either from the county court or the division court within the county in which the municipality or assessment district, or some part thereof, is situated, in the same manner as upon an ordinary judgment for costs recovered in such court. R.S.O. 1950, c. 24, s. 76.

80. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance, and none other, and shall be taxed according to the allowance in the division court for such costs, and, in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. R.S.O. 1950, c. 24, s. 77. What costs chargeable

81. County court judges are entitled to receive from the several municipalities as their expenses for holding courts in such municipalities other than the county town of the county in which the judge resides, for the purpose of hearing appeals from the court of revision under this Act, the same sums as they are allowed for holding courts for revising voters' lists. R.S.O. 1950, c. 24, s. 78. Expenses of county judges on assessment appeals

82.—(1) The clerk of the municipality shall alter and amend the assessment roll in accordance with the decisions of the judge, and shall write his name or initials against every alteration or amendment. 1951, c. 4, s. 7, *part*; 1959, c. 6, s. 9 (1). Alteration of roll by clerk

(2) When the judge has heard and decided an appeal, the clerk of the municipality shall within fourteen days cause notice of the decision in such appeal to be given by registered mail to the persons to whom notice of the hearing was given and such notice shall state thereon that such decision may be appealed to the Ontario Municipal Board within twenty-one days of the mailing of such notice. 1951, c. 4, s. 7, *part*; 1955, c. 4, s. 19; 1959, c. 6, s. 9 (2). Notice of decision

APPEALS TO MUNICIPAL BOARD

83.—(1) The municipal corporation, the assessor or assessment commissioner or any person assessed may appeal from the decision of the county judge to the Ontario Municipal Board. Appeals to Municipal Board

(2) An appeal also lies to the Ontario Municipal Board from a decision of the county judge under section 52, 53, 54 or 131. Appeal under sec. 52, 53, 54 or 131

(3) Except as provided in subsections 4 and 5, sections 75 to 79, 81, 82, 84 and 86 apply to appeals taken under subsection 1 or 2, and on such appeals the Board has the powers and duties of a county judge under such sections. Provisions applicable to appeals, powers of Board

Notice of
appeal

(4) A notice of appeal to the Board under this section shall, within twenty-one days after notice of the decision appealed from has been given under subsection 2 of section 82, be sent by the party appealing by registered mail to the secretary of the Board and to the persons to whom notice of the hearing before the judge was given.

Notice of
hearing

(5) Upon receipt of a notice of appeal under this section, the secretary of the Board shall arrange a time and place for hearing the appeal and shall send notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing.

Appeal from
Board

(6) An appeal lies from the decision of the Board under this section to the Court of Appeal upon all questions of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Board.

Procedure
on appeals

(7) The practice and procedure on the appeal to the Court of Appeal shall be the same *mutatis mutandis* subject to any rule of the court or regulation of the Board as upon an appeal from a county court.

Alteration
in roll as
result of
appeal from
Board

(8) If, by the decision of the Board or by the judgment of the Court of Appeal, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality concerned shall alter the assessment roll to give effect to the decision or judgment and shall write his name or initials against every alteration. 1956, c. 3, s. 12.

Appeals to
Court of
Appeal in
certain
matters

84.—(1) An appeal lies to the Court of Appeal from the judgment of the judge on a question of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Ontario Municipal Board except an order made under section 83.

Noting of
question of
law or con-
struction by
county
judge

(2) Any party desiring so to appeal to the Court of Appeal shall, on the hearing of the appeal by the judge, request the judge to make a note of any such question of law or construction, and to state the same in the form of a special case for the Court of Appeal.

Stating of
special case
by county
judge

(3) It is the duty of the judge to make a note of such request, and he may thereupon state such question in the form of a special case, setting out the facts in evidence relative thereto, and his decision of the same, as well as his decision of the whole matter.

(4) A copy of such special case, signed by the judge, shall be transmitted to the Court of Appeal, and the practice and procedure on the appeal shall be the same *mutatis mutandis* as upon an appeal from a county court.

Transmit-
ting special
case to
Court of
Appeal

(5) On the application of any party desiring to appeal, and on such notice to the other party and on such evidence as may seem proper to the Court of Appeal, that Court may if it sees fit direct the county judge to state a special case as in sub-section 3 if the judge on the hearing before him refused to do so.

Direction
by Court of
Appeal to
county judge
to state
special case

(6) The statement of any such case or the hearing or argument or other proceeding thereon shall not delay the final revision of the assessment roll or other proceeding thereon; but, if by the judgment of the Court of Appeal upon the case stated it appears that any alteration should be made in the assessment roll respecting the assessment in question, the county judge on being certified thereof shall cause the proper entries to be made in the assessment roll to give effect to the judgment.

Statement of
case not to
affect rolls
being
prepared

(7) Where an appeal lies from the decision of the judge to the Ontario Municipal Board under section 83, the judge shall not state a case under this section unless all the parties consent and request him to do so, and if a case is so stated an appeal does not lie to the Ontario Municipal Board under section 83. R.S.O. 1950, c. 24, s. 81.

Statement of
case where
appeal lies
to Ontario
Municipal
Board

85. Upon an appeal to the Court of Appeal, the Court of Appeal has jurisdiction to determine any question or matter relating to the assessment in question and in addition is a court having original jurisdiction to determine all questions as to whether any persons or things are or were assessable or are or were legally assessed or exempted from assessment. 1956, c. 3, s. 13.

Jurisdiction
of Court
of Appeal

86.—(1) Upon an appeal upon any ground against an assessment, the judge of the county court or the Ontario Municipal Board hearing an appeal under section 83, or the Court of Appeal, as the case may be, may reopen the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made, and the person or persons who should be assessed therefor may be placed upon the roll by such judge, Board or Court, and if necessary the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make it correct in accordance with the findings of such judge, Board or Court.

Assessment
to be open
upon appeal

Reference to
similar land

(2) Such judge, Board or Court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed. R.S.O. 1950, c. 24, s. 82.

Powers of
court of
revision,
etc.

87. Upon a complaint or appeal with respect to an assessment, the court of revision, county court judge and the Ontario Municipal Board may review the assessment and make any decision the assessor could or should have made. 1956, c. 3, s. 14, *part*.

Limitation
of actions
in courts

88. No action or other proceeding, except an action or other proceeding brought by or on behalf of a municipality, shall be brought in any court with respect to an assessment or taxes based thereon,

- (a) except within sixty days after the day upon which the roll is required by law to be returned, or within sixty days after the return of the roll, in case the roll is not returned within the time fixed for that purpose;
- (b) where a complaint with respect to the assessment is made to the court of revision, except within the time limited for appealing from the decision of the court of revision to the county court judge;
- (c) where an appeal is made from the decision of the court of revision to the county court judge, except within the time limited for appealing from the decision of the county court judge to the Ontario Municipal Board; and
- (d) where an appeal is made from the decision of the county court judge to the Ontario Municipal Board, except within fifteen days after the date of the decision of the Ontario Municipal Board;

provided, where an appeal is made to the Court of Appeal, no action or other proceeding shall be brought in any other court with respect to the assessment. 1956, c. 3, s. 14, *part*.

Alteration
of roll as
result of
judgment

89. Where any part of an assessment is declared invalid or in error by the Supreme Court or a county court, the whole assessment is not thereby invalidated and the court may direct that the assessment roll be altered in accordance with its judgment and the clerk of the municipality concerned shall so alter the roll and shall write his name or initials against every alteration. 1956, c. 3, s. 14, *part*.

90. No matter that could have been raised by way of complaint to the court of revision or in an action or other proceeding with respect to an assessment in a court within the times limited for bringing such complaint, action or other proceeding under this Act shall be raised by way of defence in any action or other proceeding brought by or on behalf of a municipality. 1956, c. 3, s. 14, *part*.

Defence limited in actions to collect taxes, etc.

91. Where the assessment of any real property is altered on an appeal or in an action, any business assessment based on the assessed value of such real property shall be altered in the business assessment roll by the clerk of the municipality to conform with the altered real property assessment, whether or not the business assessment roll has been finally revised. R.S.O. 1950, c. 24, s. 84; 1956, c. 3, s. 15.

Revision of business assessment roll on alteration of real property assessment

92.—(1) When, after the appeal provided by this Act, the assessment roll has been finally revised and corrected, the clerk of the municipality shall within ninety days transmit to the county clerk a summarized statement of the contents of the roll showing the total population of the municipality and the total assessment of each of the various classes of property liable to assessment, and when required to do so by the county judge or by resolution of the county council for the purpose of equalization or otherwise shall produce the original assessment roll of the municipality.

Summarized statement of roll to be transmitted to county clerk

(2) For default in the performance of his duties under this section, the clerk of the municipality is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$20. R.S.O. 1950, c. 24, ss. 85, 232.

Offence

EQUALIZATION

93.—(1) Subject to the approval of the Department, the council of every county may appoint a county assessor who, for the purpose of making uniform the methods of preparation of the assessment rolls in the municipalities in the county and for the purpose of ascertaining whether the valuations of real property made by the assessors in each such municipality bear a just relation one to another, shall supervise the assessment and advise the assessors and shall report thereon to the county council before the 1st day of June in every year and such report shall form the basis for equalization under section 94.

County assessor

(2) The Minister may, subject to the approval of the Lieutenant Governor in Council, by regulation prescribe rules for the guidance of county assessors and every county assessor shall conduct himself in accordance therewith.

Departmental rules

Assessment
complaint

(3) A county assessor has the same right of appeal to a court of revision in any such municipality that a person assessed in the municipality has under subsection 3 of section 72. R.S.O. 1950, c. 24, s. 86 (1-3).

Clerk to
notify
county
assessor of
return of
roll

(4) The clerk of every municipality in a county for which a county assessor has been appointed shall, within seven days after the assessment roll has been returned to him by the assessor in any year, give notice in writing by registered mail to the county assessor of the date on which such return was made. R.S.O. 1950, c. 24, s. 86 (4); 1958, c. 4, s. 6.

Complaint
to court of
revision

(5) Notice of an appeal by a county assessor to the court of revision of any municipality within the county may be given within thirty days after receiving from the clerk notice of the date of the return of the assessment roll of such municipality, and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all the assessments included in the roll or in any area of the municipality defined in the notice or generally with respect to assessments of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice.

Appeals
from court
of revision
and county
judge

(6) A county assessor has the same right of appeal from a decision of a court of revision or county judge as a person assessed under this Act.

General
appeal

(7) No such general appeal shall be commenced without the approval of the Department, and the procedure applicable thereto shall be determined by the court of revision, county judge or the Ontario Municipal Board, as the case may be, and such notice thereof shall be given by publication or otherwise as may be directed by the court, judge or Board, and upon the hearing thereof the court, judge or Board may review any or all of the assessments included in the roll as may be necessary to determine the appeal, may alter and amend the roll and may direct the making of a new roll in accordance with the terms of the order of the court, judge or Board. R.S.O. 1950, c. 24, s. 86 (5-7).

Annual
examination
of assess-
ment rolls
by county
councils for
purpose of
equalization

94.—(1) The council of every county shall yearly, and not later than the 1st day of July, examine or cause to be examined the assessment rolls made in the preceding year of the different townships, towns and villages in the county for the purpose of ascertaining whether the valuations of real property and business assessment made by the assessors in each township, town or village bear a just relation one to another, and may, by by-law for the purpose of county rates,

increase or decrease in any township, town or village the aggregate valuations, adding or deducting so much per cent as may, in their opinion, be necessary to produce a just relation between them; but they shall not reduce the aggregate valuation for the whole county as made by the assessors. R.S.O. 1950, c. 24, s. 87 (1); 1955, c. 4, s. 20; 1957, c. 2, s. 14; 1958, c. 4, s. 7 (1).

(2) Where in the preceding year a mining municipality has received or becomes entitled to a payment under the regulations made under section 36, an amount shall be calculated by, Assessment equivalent of mining revenue payments to be added in equalizing assessment

(a) multiplying the part of such payment computed under paragraph 1 of subsection 2 of section 36 that was credited to the general funds of the municipality by 1000; and

(b) dividing the product obtained under clause a by the aggregate of the mill rates for general and county purposes levied in that year by the municipality on the types of assessments mentioned in clauses a, b and c of subsection 2 of section 294 of *The Municipal Act*; and R.S.O. 1960, c. 249

(c) increasing or decreasing the quotient obtained under clause b by the same per cent as the aggregate valuations of such municipality made in that year are increased or decreased under subsection 1,

and for the purpose of county rates the amount obtained under clause c shall be added to the aggregate valuations of the municipality as increased or decreased under subsection 1. 1958, c. 4, s. 7 (2); 1960, c. 3, s. 8 (1).

(3) For the purpose of county rates, there shall be added to the aggregate valuations of the municipality, as increased or decreased under subsection 1, the valuations of all properties for which payments in lieu of taxes are paid by the Crown in right of Ontario or any board, commission, corporation or other agency thereof or The Hydro-Electric Power Commission of Ontario. Valuations on which payments in lieu of taxes are paid to be added to aggregate valuations 1960, c. 3, s. 8 (2).

(4) Within ten days after the equalization by-law has been passed by the county council, the county clerk shall transmit to the reeve and clerk of each municipality a copy thereof. Notice of equalization to municipalities concerned R.S.O. 1950, c. 24, s. 87 (2).

Extensions
of time for
equalization
proceedings

95. The council of a county may in any year by by-law approved by the Department and passed on or before the 1st day of July extend the time,

- (a) for making the report of the county assessor mentioned in subsection 1 of section 93, for such period, not exceeding sixty days after the 1st day of June, as the by-law may provide;
- (b) for examining the assessment rolls and passing the equalization by-law mentioned in section 94, for such period, not exceeding sixty days after the 1st day of July, as the by-law may provide;
- (c) for disposition of an equalization appeal under section 96, for such period, not exceeding sixty days after the 1st day of January next following, as the by-law may provide. R.S.O. 1950, c. 24, s. 88.

Appeal as to
equalization
of
assessments

96. If any municipality is dissatisfied with the action of any county council in increasing or decreasing, or refusing to increase or decrease, the valuation of any municipality, the proceedings shall be as follows:

Notice of
appeal

1. The municipality so dissatisfied may appeal from the decision of the council at any time within twenty days after the passing of such by-law, by giving to the clerk of the county council notice in writing, which notice shall state whether the municipality appealing is willing to have the final equalization of the assessment made by the county judge.

County
council may
elect as to
county judge
acting

2. Every county council, at the same session in which the assessment has been equalized, shall determine whether the council is willing to have the final equalization of the assessment, in case of appeal, made by the county judge.

Notice to
Minister

3. Upon receiving notice of appeal, in case any party to the appeal has objected to the final equalization of the assessment being made by the county judge, the clerk of the county council shall forthwith notify the Minister in writing of such objection, giving the name or names of the municipality or municipalities so objecting. R.S.O. 1950, c. 24, s. 89, pars. 1-3.

Appoint-
ment of
court by
Order in
Council

4. The Lieutenant Governor in Council, upon the recommendation of the Minister, may appoint three persons who shall form a court which shall, at such time and place as the Lieutenant Governor in Council appoints, proceed to hear and determine the appeal either with or without the evidence of witnesses or with such evidence as they may decide upon hearing, and may examine witnesses under oath or otherwise,

and may adjourn from time to time, and the court shall equalize the valuations of real property and business assessment made by the assessors in each municipality in the county, but shall not reduce the aggregate valuation for the whole county as made by the assessors, and shall forthwith report the same to the county council. R.S.O. 1950, c. 24, s. 89, par. 4; 1955, c. 4, s. 21 (1).

5. The Lieutenant Governor in Council in lieu of appointing persons to form a court as provided in paragraph 4 may direct that the appeal be heard and determined by the Ontario Municipal Board, in which case the Board shall hear and determine the appeal as if it were being heard and determined by the county judge. Appointment of Ontario Municipal Board in lieu of a court

6. It is the duty of the court to dispose of the appeal before the 1st day of January next after the appeal. Time for disposal of appeal

7. The county judge or the persons appointed to form a court shall be paid such remuneration and travelling and other expenses as the Lieutenant Governor in Council may determine to be borne and paid as directed by the county judge or the court, as the case may be. Remuneration

8. The fees of the stenographic reporter, if any, and any other expenses incidental to the hearing of the appeal shall be borne and paid as directed by the county judge or the court, as the case may be. Other expenses

9. Any two members of such court constitute a quorum. R.S.O. 1950, c. 24, s. 89, pars. 5-9. Quorum

10. Where all the parties to the appeal have agreed to have the final equalization of the assessment made by the county judge, the clerk of the county council shall forthwith notify the county judge in writing, and the county judge shall appoint a day for hearing the appeal, not later than ten days from the receipt of such notice of the appeal, and may on such day proceed to hear and determine the appeal, either with or without evidence of witnesses, or with such evidence as he may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn from time to time, and the judge shall equalize the valuations of real property and business assessment made by the assessors in each municipality in the county but shall not reduce the aggregate valuation for the whole county as made by the assessors, and shall forthwith report the same to the county council. R.S.O. 1950, c. 24, s. 89, par. 10; 1955, c. 4, s. 21 (2). Equalization by county judge

Time for
disposal of
appeal

11. It is the duty of the judge to dispose of the appeal before the 1st day of January next after the appeal. R.S.O. 1950, c. 24, s. 89, par. 11.

Death of
judge
before
report
made

12. Where the county judge dies before having made a report to the county council with respect to the appeal, the clerk of the county council shall forthwith notify in writing the succeeding judge or acting judge of the appeal under paragraph 10, and paragraph 10 applies as if the appeal had not been made to the deceased judge. 1958, c. 4, s. 8.

Appeal in
cases of
equalization
of
assessment

13. The right of appeal exists whether a county assessor has been appointed or not, and upon any such appeal the report of the county assessor shall be open to review by the court or judge as herein provided.

Costs

14. The costs incurred in the prosecution and opposing of such appeal respectively shall be borne and paid as directed by the county judge or court, as the case may be, and not otherwise, and are subject to taxation on the county court scale by the clerk of the county court of the county.

Appeal

15. An appeal lies to the Court of Appeal from any judgment of a judge and from any report made by a court constituted under paragraph 4 on any question of law or the construction of a statute and if the judgment of the Court of Appeal reverses or varies the judgment of such judge or the report of such court, such judgment or report shall be varied so as to conform to the judgment of the Court of Appeal.

Procedure
on appeal

16. The procedure on such appeal shall be, as nearly as may be, the same as upon an appeal from a county court to the Court of Appeal. R.S.O. 1950, c. 24, s. 89, pars. 12-15.

Effect of
clerk of
municipality
omitting to
send copy
of roll

97. If the clerk of the municipality has neglected to transmit a certified copy of the assessment roll, such neglect does not prevent the county council from equalizing the valuations in the several municipalities according to the best information obtainable, and any rate imposed, according to the equalized assessment, is as valid as if the assessment rolls had been transmitted. R.S.O. 1950, c. 24, s. 90.

Apportion-
ment of
county rates,
how to be
based

98. The council of a county, in apportioning a county rate among the different townships, towns and villages within the county, shall, in order that the same may be assessed equally on the whole rateable property of the county, make the aggregate valuations of the municipalities as determined under section 94 in the preceding year the basis upon which the apportionment is made. 1956, c. 3, s. 16, *amended*.

99.—(1) Where in any year boundaries of municipalities are changed or a new municipality is erected within a county and the assessment rolls for the next preceding year do not conform to the new boundaries or there is no assessment roll of the new municipality, the county council shall, by examining or causing to be examined the rolls of the municipality or municipalities from which an area has been severed or the municipality or municipalities of which or part of which the new municipality was formed, ascertain to the best of its judgment what part of the assessment of the municipality or municipalities from which an area has been severed or of which or part of which the new municipality was formed relates to the new municipality or municipalities to which an area was annexed or to the new municipality, and their several shares of the county tax shall be apportioned accordingly. 1958, c. 4, s. 9.

(2) Where the council of a county has passed its by-law for equalizing assessments on which the rates for county purposes for the succeeding year are to be based and apportioned, and any municipality in the county, or any part thereof, thereafter ceases to form part of the county for municipal purposes, the council of the county shall amend the equalization by-law by deducting from the equalized assessments shown in the by-law that portion pertaining to the municipality, or part thereof, that has ceased to form part of the county, in order that the rates for county purposes for the said succeeding year may be based and apportioned on the remainder of the equalized assessments. R.S.O. 1950, c. 24, s. 92 (2).

100. Where a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and by by-law direct, what portions of such sum shall be levied in each township, town or village in such county or locality. R.S.O. 1950, c. 24, s. 93.

101. The county clerk shall forthwith after the county rates have been apportioned certify to the clerk of each municipality in the county the total amount that has been so directed to be levied therein for the then current year for county purposes or for the purposes of any such locality, and the clerk of the municipality shall calculate and insert the same in the collector's roll for that year. R.S.O. 1950, c. 24, s. 94.

102. Nothing in this Act alters or invalidates any special provisions for the collection of a rate for interest on county debentures in any general or special Act or in any county by-law providing for the issue of debentures. R.S.O. 1950, c. 24, s. 95, *amended*.

County rate

103.—(1) Notwithstanding any other provision in this Act or any other special or general Act, the imposition or levy by a county council of any rate for county purposes shall be made and raised upon and from the assessment of real property and business assessments as equalized in the county. R.S.O. 1950, c. 24, s. 96 (1); 1955, c. 4, s. 23, *amended*.

Local municipality to levy county rates on all rateable property

(2) When under this Act or any other special or general Act any rate is directed or required to be levied in a local municipality forming part of a county for county purposes, the rate shall in the local municipality be calculated and levied upon and against the whole rateable property including business assessments within such local municipality according to the last revised assessment roll thereof. R.S.O. 1950, c. 24, s. 96 (2).

TERRITORIAL DISTRICT ASSESSOR

Interpretation

104.—(1) In this section, “locality” means,

R.S.O. 1960, c. 249

(a) an improvement district erected under *The Municipal Act*; and

(b) a public school section (including a township school area and a union school section), or a separate school, or a high school district, in territory without municipal organization,

and includes the board of any of them.

Appointment
R.S.O. 1960,
c. 395

(2) The Minister may appoint a district assessor for any territorial district described in *The Territorial Division Act* when in any year such an appointment is requested by not less than two-thirds of the municipalities, other than improvement districts, in the territorial district.

Request by
by-law

(3) The request for the appointment of a district assessor by any municipality shall be by a by-law of the municipality, a certified copy whereof shall be lodged with the Minister.

Idem

(4) If in any year the number of requests made for the appointment of a district assessor is insufficient, the by-law of any municipality passed in that year requesting that the appointment be made expires at the end of that year and ceases to have further effect.

Term of
office

(5) Every district assessor appointed under this section shall hold office during pleasure and when from any cause his office becomes vacant the Minister may appoint his successor.

(6) The salary of each district assessor shall be such as ^{Salary} may from time to time be fixed by the Minister.

(7) With the approval of the Minister, a district assessor ^{Provision of equipment, etc.} for the performance of the duties of his office may from time to time,

- (a) provide suitably furnished office premises for himself and his staff, if any, at a convenient place in the territorial district for which he is appointed;
- (b) provide such mechanical and other office equipment, stationery and other office supplies as are necessary and sufficient for the purposes of his office;
- (c) appoint, engage the services and fix the salaries or wages of such assistant assessors, clerks and other employees, temporary or permanent, as are necessary and sufficient for the purposes of his office;
- (d) incur and pay such travelling and other costs, charges and expenses as are necessary for or ordinarily incidental to the purposes of his office.

(8) The district assessor appointed for a territorial district ^{Powers and duties} shall supervise the yearly assessment to be made in every municipality and locality therein and advise the local assessors thereon in order that in the preparation of the yearly assessment rolls uniform practices will be followed and that in making the yearly assessments the valuations and amounts thereof are determined in accordance with this Act and thereby ensure that the yearly assessments in every municipality and locality bear a just relation one to another.

(9) The district assessor, not later than the 31st day of ^{Report to Minister} January in each year, shall make a written report to the Minister and to the clerk of every municipality and the secretary of the board of every locality upon the matters to which subsection 8 applies in relation to the preceding year and in such report he shall make particular reference to any municipality or locality in the territorial district in which any material or substantial non-compliance with the requirements of this Act occurred during the preceding year.

(10) The district assessor has the same rights with respect ^{Rights of appeal} to appeals as to assessments as a county assessor has under section 93 and the provisions of that section in relation thereto apply *mutatis mutandis*.

Payment
of costs

(11) The total annual cost incurred for the salaries and wages of a district assessor and his staff, if any, and for all other expenses and disbursements in connection with his office as authorized by this section shall be chargeable to and be provided and paid by the municipalities and localities in the territorial district, and the amount of their respective shares shall be in the proportion that the rateable assessment of each of them bears to the total of the rateable assessments of all of them, according to their last revised assessment rolls.

Budget

(12) The district assessor shall in December of each year prepare the budget of the estimated cost of his office for the ensuing year and of the proportion thereof chargeable to each municipality and locality and shall deliver a copy of the budget to each municipality and locality not later than the 15th day of that month.

Appeal

(13) Any municipality or locality not satisfied with the budget or its proportion thereof may, within ten days of receipt thereof, appeal to the Minister whose decision on such appeal is final and binding, and any correction in the budget or in the proportions chargeable to the municipalities and localities shall be made as the Minister may direct in writing.

Payments
to assessor

(14) Every municipality and locality shall in each year remit to the district assessor, by equal quarterly payments in advance, its proportion of the cost for that year as shown in the budget, or as shown in the budget as corrected according to the decision of the Minister upon an appeal, and such quarterly payments shall be made on the 15th day of January, April, July and October in each year, and if any such quarterly payment is not made on due date it shall bear interest at the rate of 6 per cent per annum until paid.

Audit

(15) The district assessor shall keep proper books of account with respect to his office and the books shall be audited annually by the auditor of the municipality having the largest rateable assessment in the territorial district and the cost of the audit shall be deemed to be an expense of the office of the district assessor and be included in his annual budget.

Copy of
audit to be
delivered

(16) A copy of the auditor's report for each year shall be mailed by the auditor to each municipality and locality in the territorial district, and, if a deficit occurred with respect to that year, the amount thereof shall be included in the next budget and, if a surplus resulted for that year, the amount thereof shall be shown in the next budget and shall serve to reduce the amount required to be provided by the municipalities and localities. R.S.O. 1950, c. 24, s. 97.

(17) If any municipality or locality in a district is dissatisfied with the last revised assessment as equalized for any purpose by the district assessor or by the Department, the municipality or trustees of an improvement district or school board, as the case may be, may appeal by notice in writing to the Ontario Municipal Board from the decision of the district assessor or the Department at any time within thirty days after the mailing of the equalized report to the municipality or locality by the district assessor or the Department. 1955, c. 4, s. 24, *part*.

Appeal in cases of equalization of assessment

(18) Every report of an equalization made under this section shall set out the time within which an appeal may be made to the Ontario Municipal Board with respect to such equalization. 1957, c. 2, s. 15.

Report of equalization to indicate time for appeal

(19) The costs incurred in the prosecution and opposing of such an appeal respectively, the fees of the stenographic reporter, if any, and any other expenses incidental to the hearing of the appeal, shall be borne and paid as directed by the Ontario Municipal Board and not otherwise, and shall be subject to taxation on the district court scale by the clerk of the district court of the district in which the municipality or locality is situated.

Costs

(20) An appeal lies from the decision of the Ontario Municipal Board under this section to the Court of Appeal upon all questions of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Board.

Appeal from Ontario Municipal Board

(21) The procedure on the appeal to the Court of Appeal shall be, as nearly as may be, the same as upon an appeal from a county court to the Court of Appeal. 1955, c. 4, s. 24, *part*.

Procedure on appeal to Court of Appeal

COLLECTION OF TAXES

105. The taxes due upon any land with costs may be recovered with interest as a debt due to the municipality from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and are a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the municipality or of any agent or officer, or by want of registration. R.S.O. 1950, c. 24, s. 98.

Who liable for taxes

Taxes to be a lien upon lands

Recovery
of taxes
by action

106.—(1) The taxes payable by any person may be recovered with interest and costs as a debt due to the municipality, in which case the production of a copy of so much of the collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the clerk of the municipality, is *prima facie* evidence of the debt.

Recovery in
division
court

(2) Where the amount claimed does not exceed \$200, an action to recover the amount may be brought in a division court.

Liability for
taxes on
business in
case of
death or
change of
residence
R.S.O. 1960,
c. 249

(3) Notwithstanding *The Municipal Act* and subject to section 131, every person assessed in respect of business upon any assessment roll that has been revised by the court of revision or county judge is liable for any rates that may be levied upon such assessment roll notwithstanding the death or removal from the municipality of the person assessed and notwithstanding that such rates are not levied until the year following that in which the assessment roll was revised. R.S.O. 1950, c. 24, s. 99.

Paying rent
to collector
or treasurer
until taxes
paid

107. Where taxes are due upon any land occupied by a tenant, the collector or, after the roll has been returned, the treasurer may give the tenant notice in writing requiring him to pay such collector or treasurer the rent of the premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs, and the collector or treasurer has the same authority as the landlord of the premises would have to collect the rent by distress or otherwise to the amount of the unpaid taxes and costs; but nothing in this section prevents or impairs any other remedy for the recovery of the taxes or any portion thereof from the tenant or from any other person liable therefor. R.S.O. 1950, c. 24, s. 100.

When tenant
may deduct
taxes from
rent

108. Any tenant may deduct from his rent any taxes paid by him that as between him and his landlord the latter ought to pay. R.S.O. 1950, c. 24, s. 101.

Provincial
taxes

109. All moneys assessed, levied and collected under any Act by which the same are made payable to the Treasurer of Ontario or other public officer for the public uses of Ontario, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the collector's rolls in separate columns, in the heading whereof shall be designated the purpose of the rate. R.S.O. 1950, c. 24, s. 102.

COLLECTOR'S ROLLS

110.—(1) The clerk of every municipality shall make a collector's roll or rolls, as may be necessary, containing columns for all information required by this or any other Act to be entered by the collector therein, and in such roll or rolls he shall set down the name in full of every person assessed, and in the proper columns in that behalf the amount for which he is assessed in respect of his real property and otherwise under this Act as ascertained after the final revision of the assessment roll, and he shall calculate and, opposite the assessed value, he shall set down in one column to be headed "*County Rates*" the amount for which the person is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "*General Rate*" the amount with which the person is chargeable in respect of sums ordered to be levied by the council of the municipality for the purposes thereof, and including any special rate for collecting the principal or interest for the payment of debentures issued, and in other columns any local improvement rate or school rate or other special rate, or sums for the commutation of statute labour or any sum that is required by any other Act to be placed on the collector's roll the proceeds of which are required by law or by the by-law imposing it to be kept distinct and accounted for separately, and every such last-mentioned rate shall be calculated separately and the column therefor shall be headed "*Special Rate*", "*Local Improvement Rate*", "*Public School Rate*", "*Separate School Rate*" or "*Special Rate for School Debts*", or as the case may be.

Clerks of municipalities to make out collector's rolls, their form, contents, etc.

(2) Notwithstanding subsection 1 or *The Public Schools Act* or *The Separate Schools Act*, the council of any municipality may by by-law provide that the clerk shall set down the name in full of every person assessed and the assessed value of his real property and taxable business, as ascertained after the final revision of the assessment roll, and opposite such assessed value he shall set down in a column for that purpose the total amount for which the person is chargeable for all sums ordered to be levied by the council or school boards for the purposes thereof.

Preparation of collector's roll
R.S.O. 1960,
cc. 330, 368

(3) The form of the collector's roll may be varied to facilitate the use of,

Collector's roll, mechanical methods

(a) mechanical methods in the preparation of the roll;

(b) mechanical methods of accounting and bookkeeping and, where the methods in this clause are used, the

treasurer may exercise the powers and perform the duties of the collector and the clerk in respect of the roll.

Information
to be given
in tables
appended
to rolls

(4) Appended to every roll made up under subsection 2 there shall also be a table setting forth,

- (a) the total amount of taxes to be collected under and by virtue of such roll or rolls;
- (b) the name and amount of each rate levied by the municipality that is required by law or by the by-law imposing it to be kept distinct and accounted for separately and specifying the aggregate proceeds of each rate; and
- (c) in the case of townships, the name and amount of each rate levied by the municipality for each school section,

and the clerk shall, before delivering the roll to the collector, furnish to the treasurer of the municipality a copy of the table.

Tax bill,
use of
separate

(5) Where the council of a township exercises the power set forth in subsection 2, a separate form of demand for taxes or tax bill may be provided for each school section whereon shall be written, printed or endorsed a table setting forth the particulars of each rate levied in the school section.

Certain
names to
be omitted
from
collector's
roll

(6) Notwithstanding any other provision in this Act or any other Act, the council of any local municipality may by by-law provide that the clerk shall not enter on any collector's roll the name of any tenant or lessee unless such tenant or lessee is required by the terms of his lease to pay the taxes or where the owner is not liable to pay the taxes. R.S.O. 1950, c. 24, s. 103.

Minimum
tax

111.—(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than \$6, the sum of such taxes shall be deemed to be \$6 and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$6 shall form part of the general funds of the municipality. R.S.O. 1950, c. 24, s. 104 (1); 1960, c. 3, s. 9.

(2) Where immediately prior to the passing of a by-law by any municipality under subsection 1 lots therein owned by the same person were assessed together under paragraph 7 of subsection 1 of section 20, such lots shall continue to be so assessed as long as they all remain the property of that person, provided that nothing in this subsection shall be deemed to apply to the amount at which such lots may be assessed.

Existing
combined
assessments
to be
continued

(3) Where at any time after the passing of a by-law by any municipality under subsection 1 lots therein that adjoin one another are shown on the same registered plan and are owned by the same person, he may by notice in writing to the assessor require that such lots shall thereafter be assessed as one parcel and at one total amount of assessment during such time as he continues to be the owner. R.S.O. 1950, c. 24, s. 104 (2, 3).

Requirement
for combined
assessment

112. The clerk shall attach to the roll a certificate signed by him according to the following form:

Collector's
roll to be
certified by
clerk

I do certify that the within (*or annexed, or attached, or as the case may be*) Roll is the Collector's Roll prepared according to the provisions of *The Assessment Act* for (*naming the municipality or Ward No. of*, *as the case may be*) for the year 19....

A.B.

Clerk of.

and shall deliver the roll so certified to the collector on or before the 1st day of September, or such earlier date as may be prescribed by by-law of the municipality. R.S.O. 1950, c. 24, s. 105; 1958, c. 4, s. 10.

113. If corrections are made in the assessment roll, under subsection 20 of section 72 or under section 86, after the collector's roll or rolls for the municipality for the year for which such assessment has been made have been prepared, the clerk of the municipality shall alter or amend the collector's roll or rolls to correspond with the changes made by the court of revision, judge, board or court under such sections, and by inserting therefor, and the rates or taxes shall be collectable in accordance with such corrected rolls in the same manner and with the like remedies as if they had been in the rolls when first prepared and certified by the clerk of the municipality. R.S.O. 1950, c. 24, s. 107.

Correction
of roll to
carry out
changes in
assessment

COLLECTORS AND THEIR DUTIES

Duties of
collectors

114. The collector, upon receiving his roll, shall proceed to collect the taxes therein mentioned. R.S.O. 1950, c. 24, s. 108.

Notice of
taxes by
collector

115.—(1) In cities, towns, villages and townships, the collector shall give to the person taxed a written or printed notice specifying the amount of the taxes payable by him by delivering the notice or causing it to be delivered to him or for him at his residence or place of business or upon the premises in respect of which the taxes are payable, and may call on the person taxed at his usual residence or place of business if within the municipality in and for which the collector has been appointed and demand payment of the taxes. 1959, c. 6, s. 10.

How may
be given

(2) In cities, towns, villages and townships, the council may by by-law authorize the collector, clerk or treasurer to mail the notice or cause it to be mailed to the address of the residence or place of business of such person. R.S.O. 1950, c. 24, s. 109 (2), *amended*.

Particulars
to be given
in tax
notice

(3) The written or printed notice above-mentioned shall have written or printed thereon a schedule specifying the different rates and the amount on the dollar to be levied for each rate, making up the aggregate of the taxes referred to in the notice, and also containing the information required to be entered in the collector's roll under section 110. R.S.O. 1950, c. 24, s. 109 (3).

Entry of
date of
giving
notice

116.—(1) The collector shall at the time of such demand or notice, as the case may be, or immediately thereafter, enter or cause to be entered on his roll opposite the name of the person taxed the date of such demand or of the delivery or mailing of the notice.

Initials to
entries

(2) Every person so entering any such date shall append his initials thereto, and the entry is *prima facie* evidence of such demand or notice. R.S.O. 1950, c. 24, s. 110.

Proceedings
in case of
non-
residents

117. If any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by mail, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter or cause to be entered the date thereof in the roll opposite the name of such person, and the entry is *prima facie* evidence of the trans-

mission and of the time thereof, and the statement and demand shall contain, written or printed on some part thereof, the name and post office address of the collector. R.S.O. 1950, c. 24, s. 111.

118. Where a person assessed furnishes the clerk with a notice in writing giving the address to which the notice of taxes may be delivered to him and requesting that the notice be delivered to such address by registered mail, the notice shall be so delivered by the collector who shall add the cost of registration to the taxes, and such notice shall stand until revoked in writing. 1951, c. 4, s. 9.

Notice of address for tax bills

119. After taxes have been levied in any year, the collector shall upon demand and the payment of a fee of 25 cents give a certificate with respect to any assessment for real property or business assessment indicating that the taxes for the current year have been levied, the amount of the taxes and whether or not all or any part of such taxes have been paid. 1958, c. 4, s. 11.

Certificate re current taxes

BY-LAWS AS TO MODE OF PAYMENT OF TAXES

120.—(1) In cities, towns, villages and townships, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made into the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

By-laws requiring taxes to be paid into office of treasurer or collector

Payments by instalments

(2) A by-law under subsection 1 may contain provisions with respect to the payment of taxes by tenants of lands owned by the Crown or in which the Crown has an interest, in which case the by-law shall provide that, where any such tenant has been employed either within or outside the municipality by the same employer for not less than thirty days, such employer shall pay over to the treasurer or collector on demand out of any wages, salary or other remuneration due to such employee the amount then payable for taxes under the by-law and such payment relieves the employer from any liability to the employee for the amount so paid. R.S.O. 1950, c. 24, s. 113 (1, 2).

Crown property

Penalty
for non-
payment
of taxes

(3) The council may by by-law impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding 1 per cent on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied. 1952, c. 3, s. 17, *part*.

Idem

(4) In any municipality in which a by-law has not been passed under subsection 3, the council may by by-law impose a penalty not exceeding 4 per cent on all taxes of the current year remaining unpaid on the first day of default after the 15th day of September of the year in which the taxes are levied. 1952, c. 3, s. 17, *part*; 1957, c. 2, s. 16 (1).

Discount or
interest on
payments
in advance

(5) The council may by by-law authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

- (a) to allow a discount on any taxes so paid in advance at a rate not exceeding 6 per cent per annum and may allow interest at a rate not exceeding 6 per cent per annum on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or
- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding 6 per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment roll on which such taxes are to be fixed and levied has not been revised and certified by the court of revision when any such advance payment is made, and a by-law passed under this subsection remains in force from year to year until it is repealed or amended. 1958, c. 4, s. 12 (1).

Notice as
to time and
mode of
payment

(6) If a by-law is passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 115 on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or the percentage charge imposed, if any, and at any time within fourteen days after such notice has first been given, in accordance with section 115, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

(7) Where, in accordance with this section, a percentage is added to unpaid taxes, the by-laws shall not be repealed before the return of the collector's roll. R.S.O. 1950, c. 24, s. 113 (5, 6). By-law to be in force till return of collector's roll

(8) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada, trust company or Province of Ontario Savings Office as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality. R.S.O. 1950, c. 24, s. 113 (7); 1958, c. 4, s. 12 (2). Provision for payment of taxes into bank, etc.

(9) The council of any municipality may by by-law authorize the treasurer and the collector of taxes to accept part payment from time to time on account of any taxes due and to give a receipt for such part payment, provided that acceptance of any such part payment does not affect the collection of any percentage charge imposed and collectable under subsection 3 in respect of non-payment of any taxes or any class of taxes or of any instalment thereof. By-law to authorize part payment of taxes due

(10) Where the treasurer or the collector of taxes receives part payment on account of taxes due for any year, he shall credit such part payment first on account of the interest and percentage charges, if any, added to such taxes. Disposition of part payment of taxes

(11) The council of any municipality may by by-law divide the municipality into separate areas for the purposes of this Act, and in any by-law providing for the payment of taxes by instalments may for every such area name a different day within a fixed period of time for the payment of any instalment. R.S.O. 1950, c. 24, s. 113 (8-10). Payment of instalments in areas

DISTRESS FOR RECOVERY OF TAXES

121.—(1) Subject to section 120, if taxes that are a lien on land remain unpaid for fourteen days after demand or notice made or given pursuant to section 115, 117 or 120, the collector or, where there is no collector, the treasurer may by himself or his agent (subject to the exemptions and provisos hereafter mentioned in this section) levy them with costs by distress, Distress and sale for taxes that are a charge on land

(a) upon the goods and chattels, wherever found within the county in which the municipality lies, belonging

to or in the possession of the owner or tenant of the land whose name appears upon the collector's roll (who is hereinafter called "the person taxed");

- (b) upon the interest of the person taxed in any goods on the land, including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon the goods and chattels of the owner of the land found thereon, though his name does not appear upon the roll;
- (d) upon any goods and chattels on the land, where title to such goods and chattels is claimed in any of the following ways:
 - (i) by virtue of an execution against the person taxed or against the owner, though his name does not appear on the roll,
 - (ii) by purchase, gift, transfer or assignment from the person taxed, or from such owner, whether absolute or in trust, or by way of mortgage, or otherwise,
 - (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed, or of such owner, or by any relative of his, in case such relative lives on the land as a member of the family,
 - (iv) by virtue of any assignment or transfer made for the purpose of defeating distress;

provided that, where the person taxed or such owner is not in possession, goods and chattels on the land not belonging to the person taxed or to such owner are not subject to seizure, and the possession by the tenant of such goods and chattels on the premises is sufficient *prima facie* evidence that they belong to him; provided also that no distress shall be made upon the goods and chattels of a tenant for any taxes not originally assessed against him as such tenant; provided also that in cities and towns no distress for taxes in respect of vacant land shall be made upon goods or chattels of the owner except upon the land.

Distress for
taxes not a
lien on land

(2) Subject to section 120, in case of taxes that are not a lien on land remaining unpaid for fourteen days after demand

or notice made or given pursuant to section 115, 117 or 120, the collector or, where there is no collector, the treasurer may by himself or his agent (subject to the exemptions provided for in subsection 4) levy them with costs by distress,

- (a) upon the goods and chattels of the person taxed wherever found within the county in which the municipality lies for judicial purposes;
- (b) upon the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon any goods and chattels in the possession of the person taxed where title to them is claimed in any of the ways defined by subclauses i to iv of clause d of subsection 1, and in applying such subclauses they shall be read with the words "or against the owner though his name does not appear on the roll" and the words "or such owner" and the words "on the land" omitted therefrom;
- (d) upon goods and chattels that at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed.

(3) Notwithstanding subsections 1 and 2, no goods that are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the goods or of selling the goods upon commission or as agent shall be levied upon or sold for such taxes, and provided that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order are liable only for the taxes of the assignor or of the company that is being wound up, and for the taxes upon the premises in which the goods were at the time of the assignment or winding-up order, and thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon.

(4) The goods and chattels exempt by law from seizure under execution are not liable to seizure by distress.

Case of
goods in
possession
of ware-
houseman,
assignee or
liquidator

Goods
exempt from
distress

Exemption
to be
claimed

(5) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption.

Levy of
taxes under
warrant

(6) If at any time after demand has been made or notice given pursuant to section 115, 117 or 120, and before the expiry of the time for payment of the taxes, the collector or, where there is no collector, the treasurer has good reason to believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions is about to remove such goods and chattels out of the municipality before such time has expired and makes affidavit to that effect before the mayor or reeve of the municipality or before any justice of the peace, the mayor, reeve or justice shall issue a warrant to the collector or treasurer authorizing him to levy for the taxes and costs in the manner provided by this Act although the time for payment thereof may not have expired, and the collector or treasurer may levy accordingly.

City

(7) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part.

Costs

R.S.O. 1960,
c. 110

(8) The costs chargeable in respect of any such distress and levy are those payable to bailiffs under *The Division Courts Act*.

Prohibition

(9) No person shall make a charge for anything in connection with any such distress or levy unless such thing has been actually done.

Penalty

(10) In case any person offends against the provisions of subsection 9 or levies any greater sum for costs than is authorized by subsection 8, the like proceedings may be taken against him by the person aggrieved as may be taken by the party aggrieved in the cases provided for by sections 2, 4 and 5 of *The Costs of Distress Act*.

R.S.O. 1960,
c. 74

Notice of
taxes where
goods under
seizure

(11) Where personal property liable to seizure for taxes as hereinbefore provided is under seizure or attachment or has been seized by the sheriff or by a bailiff of any court or is claimed by or in possession of any assignee for the benefit of creditors or liquidator or of any trustee or authorized trustee in bankruptcy or where such property has been converted into cash and is undistributed, it is sufficient for the tax collector to give to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy notice of the amount due for taxes, and in such case the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in

bankruptcy shall pay the amount to the collector in preference and priority to any other and all other fees, charges, liens or claims whatsoever.

(12) Where the person making any such distress and levy is a salaried employee of the municipal corporation, the costs in respect of such distress and levy belong to the corporation. Costs of distress, when to belong to corporation
R.S.O. 1950, c. 24, s. 114.

122. No defect, error or omission in the form or substance of the notice required by section 115, 117 or 120 invalidates any subsequent proceedings for the recovery of the taxes. Informalities not to invalidate subsequent proceedings
R.S.O. 1950, c. 24, s. 115.

123. The collector or his agent, by advertisement posted up in at least three public places in the municipality or where there are wards in the ward wherein the sale of goods and chattels distrained is to be made, shall give at least six days notice of the time and place of the sale, and of the name of the person whose property is to be sold, and, at the time named in the notice, the collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to realize the amount of the taxes and costs. Public notice of sale
R.S.O. 1950, c. 24, s. 116.

124. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. Surplus, if unclaimed, to be paid to party in whose possession the goods were
R.S.O. 1950, c. 24, s. 117.

125. If such claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus shall be paid to the claimant. or to admitted claimant
R.S.O. 1950, c. 24, s. 118.

126. If the claim is contested, such surplus shall be paid by the collector to the treasurer of the municipality, who shall retain it until the respective rights of the parties have been determined by action or otherwise. When the right to surplus contested
R.S.O. 1950, c. 24, s. 119.

127.—(1) Subject to subsection 2, every collector shall return his roll to the treasurer on or before the 28th day of February in the year next following the year in which the taxes were levied, or on such earlier date in that year as the council may appoint. Dates for return of collector's roll
1951, c. 4, s. 10; 1956, c. 3, s. 17.

In cities

(2) The council of every city may by by-law fix the times for the return of the collector's rolls, and may make any enlargements of the time so fixed.

Collectors' interim returns in cities, towns and villages

(3) The collector of every city, town and village shall, until the final return of the roll, pay over to the treasurer of the city, town or village the amount of his collection once every week or more often if the council by by-law so requires.

Collectors' interim returns in townships

(4) The collector of every township shall, until the final return of the roll, pay over to the treasurer of the township the amount of his collections once every two weeks or more often if the council by by-law so requires.

Audit of collector's roll

(5) Every collector, on the request of the treasurer, shall deliver his roll, together with an account of all collections made, to the treasurer to be audited. R.S.O. 1950, c. 24, s. 120 (3-6).

Oath of collector on returning roll

128.—(1) At or before the return of his roll, every collector shall make oath in writing that the date of every demand of payment or notice of taxes required by sections 115 to 120, and every transmission of statement and demand of taxes required by section 117 entered by him in the roll, has been truly stated therein.

Idem

(2) Every other person who has delivered or mailed a notice pursuant to section 115, 117 or 120 shall in like manner at or before the return of the roll make oath that the date of the delivery or mailing of every such notice by him has been truly stated in the roll.

Form of oath, etc.

(3) Every such oath may be according to Form 5 and shall be written on or attached to the roll and may be taken before the treasurer or before any of the persons mentioned in section 238. R.S.O. 1950, c. 24, s. 121.

Failure of collector to collect

129.—(1) If the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as mentioned in section 127, the council may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes in the manner and with powers provided by law for the general levy and collection of taxes.

Duty as to return not affected

(2) No such resolution or authority alters or affects the duty of the collector to return his roll or in any manner invalidates or otherwise affects the liability of the collector or his sureties. R.S.O. 1950, c. 24, s. 122.

130.—(1) Notwithstanding the other provisions of this Act, the council of any municipality may by by-law provide for taking the assessment of business separately from the time for taking the assessment of real property, and for taking the same during such time of the year in which the rates of taxation thereon are to be levied as the by-law may provide.

(2) Any such by-law shall provide for the time when the roll for such business assessment shall be returned, for the holding of a court of revision for hearing appeals from any assessment therein in the manner provided by this Act upon the return of such assessment roll to the clerk, and the time for appeal to the court of revision shall be within ten days after the last day fixed for return of such roll and the time for appealing from the court of revision to the county judge shall be within ten days after the decision of the court of revision is given.

(3) In any municipality in which a by-law passed under subsection 3 of section 56 is in force, the council may also provide in the by-law passed under this section that the business assessment may be taken by wards, divisions of wards or groups of polling subdivisions, as the case may be, and in the by-law shall provide for the time when the roll shall be returned and the court of revision held for each ward, division or group. R.S.O. 1950, c. 24, s. 123 (1-3).

(4) The assessment of business so made and completed in the year in which the by-law becomes effective and in each subsequent year, whether or not it is completed by the time provided by the by-law, upon its final revision is the assessment of business on which the rates of taxation upon business for such year shall be levied by the council, and the assessment roll thereof with the assessment roll of real property and other assessments made for the same year, when both thereof are finally revised together, form the last revised assessment roll of the whole rateable property within the municipality within the meaning and for the purposes of this Act, *The Municipal Act* and any other general or special Act. R.S.O. 1950, c. 24, s. 123 (4); 1952, c. 3, s. 18 (1).

(5) Where the assessment of business is made and levied upon in the same year, it is not necessary for the council to levy rates on the whole rateable property according to the last revised assessment roll, but the council may levy the rates before the completion of the separate roll of business assessment and, for the purpose of fixing the rates, may estimate the amount of business assessment that will be entered on such separate roll, in which case a notice of business assess-

ment need not be delivered, but upon delivery of the tax bill all the rights of appeal provided in the case of assessments apply to the business assessment upon which the taxes mentioned in the tax bill were levied and any person assessed for business under this subsection is liable for the taxes levied in respect thereof.

Time for
payment of
business tax

(6) The council may provide that taxation upon business assessment may be made payable at times different from those at which other taxation is made payable. R.S.O. 1950, c. 24, s. 123 (5, 6).

Repealing
by-law

(7) A by-law repealing a by-law passed under subsection 1 shall be passed not later than the 31st day of March in the year in which it is to become effective, and, where a repealing by-law is passed, the assessment of business made in the preceding year is the assessment on which the rates of taxation upon business for the current year shall be levied, and in the current and each subsequent year the assessment of business shall be made together with the assessment of real property for taxation in the following year. 1952, c. 3, s. 18 (2).

Cancel-
lations,
reductions,
refunds, etc.,
of taxes

131.—(1) An application to the court of revision for the cancellation, reduction or refund of taxes levied in the year in respect of which the application is made may be made by any person,

- (a) in respect of a building that was vacant three months or more during the year; or
- (b) in respect of a pipe line under section 40 or 41 that was not in use for six months or more during the year; or
- (c) in respect of real property that has become exempt from taxation during the year or during the preceding year after the return of the assessment roll; or
- (d) in respect of a building that was razed by fire, demolition or otherwise during the year or during the preceding year after the return of the assessment roll; or
- (e) who is unable to pay taxes because of sickness or extreme poverty; or
- (f) who is overcharged by reason of any gross or manifest error; or

- (g) liable for business tax who has not carried on business for the whole year, except where the business was intended to be or was capable of being carried on during a part of the year only, or was not carried on for a period of less than three months during the year by reason of repairs to or renovations of the premises in which the business was carried on. 1953, c. 6, s. 13, *part*; 1954, c. 3, s. 9 (1); 1957, c. 2, s. 17 (1); 1960, c. 3, s. 10.

(2) The application may be made at any time during the year in respect of which the application is made and until the 28th day of February in the following year and notice in writing of the application shall be given to the assessment commissioner or, if none, the clerk of the municipality. 1953, c. 6, s. 13, *part*; 1955, c. 4, s. 25 (1).

(3) Where any person who is entitled to apply for the cancellation, reduction or refund of taxes under clause *f* or *g* of subsection 1 fails to apply, the clerk of the municipality may apply in his stead and the provisions of this section apply *mutatis mutandis* to such application. 1956, c. 3, s. 18 (1).

(4) The court of revision, subject to such restrictions and limitations as are contained in this section, may reject the application or,

- (a) where the taxes have not been paid, cancel the whole of the taxes or reduce the taxes; or
- (b) where the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) where the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid. 1953, c. 6, s. 13, *part*.

(5) The court of revision shall hear and dispose of every application not later than the 31st day of March in the year following the year in respect of which the application is made and the clerk shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given and such notice shall state thereon that such decision may be appealed to the county judge within ten days of the mailing of such notice. 1955, c. 4, s. 25 (2); 1956, c. 3, s. 18 (2).

Appeals

(6) An appeal may be had to the county judge by the applicant or the municipality from the decision of the court of revision or where the court of revision has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing *de novo*. 1953, c. 6, s. 13, *part*; 1956, c. 3, s. 18 (3).

Notice of appeal

(7) The person appealing shall personally or by his agent give notice in writing to the assessment commissioner or, if none, the clerk of the municipality, within ten days after notice of the decision of the court of revision has been given by the clerk under subsection 5, of his intention to appeal to the county judge. 1956, c. 3, s. 18 (4); 1959, c. 6, s. 11.

Occupant may be required to pay part of taxes

(8) Where a person makes application for the cancellation, reduction or refund of taxes in respect of business assessment, the court of revision, on notice to any person who occupied the premises and carried on business for the whole or any part of the period in respect of which the application is made, may direct that a proper proportion of the taxes be levied against such person for the time during which such person was in occupation although the name of such person does not appear on the assessment roll in respect of such premises, and in determining the amount payable regard shall be had to the nature of the business carried on. 1953, c. 6, s. 13, *part*.

Limitations and restrictions

(9) A cancellation, reduction or refund under clause *a* of subsection 1 shall be made only in respect of taxes levied on the assessed value of the building in accordance with the following:

1. Where the period of vacancy is less than four months, the amount of the cancellation, reduction or refund shall not exceed 10 per cent of the amount of the tax for the year during which the period of vacancy occurred.
2. Where the period of vacancy is four months or more, an additional cancellation, reduction or refund may be made not exceeding 5 per cent of the amount of the tax for the year during which the period of vacancy occurred for each additional complete month over and above three months during which the real property was vacant. 1953, c. 6, s. 13, *part*; 1954, c. 3, s. 9 (2).

Limitations and restrictions re pipe line

(10) A cancellation, reduction or refund under clause *b* of subsection 1 shall be made only in respect of taxes levied on the assessed value of the pipe line in accordance with the following:

1. Where the period for which the pipe line was not in use is less than seven months, the amount of the cancellation, reduction or refund shall not exceed 25 per cent of the amount of the tax for the year during which the pipe line was not in use.
2. Where the period for which the pipe line was not in use is seven months or more, an additional cancellation, reduction or refund may be made not exceeding 5 per cent of the amount of the tax for the year during which the pipe line was not in use for each additional complete month over and above six months during which the pipe line was not in use. 1957, c. 2, s. 17 (2).

(11) A cancellation, reduction or refund under clause *c* of subsection 1 shall be for a proportionate part of the taxes based on the number of months in the year during which the exemption existed. ^{Idem}

(12) A cancellation, reduction or refund under clause *d* of subsection 1 shall be for the proportionate part of the taxes levied on the building assessment for the part of the year remaining after the building was razed. 1953, c. 6, s. 13, *part*. ^{Idem}

(13) An application for a cancellation, reduction or refund under clause *a* of subsection 1 is applicable to all classes of properties except, ^{Application of cl. a of subs. 1}

- (a) unimproved land;
- (b) real property that has a fixed assessment;
- (c) a building that is partially exempt;
- (d) a building intended for or capable of use during a part of the year only;
- (e) a building where the rent asked is unreasonable, where the building is not suitable for occupation by a tenant or where the applicant has not continuously endeavoured to have the building occupied;
- (f) a part of a building, unless such part is separately assessed;
- (g) a building or part of a building, unless it remained unfurnished during the period in respect of which the application is made; and
- (h) a building equipped and adapted for use for a limited and special class of occupancy only. 1953, c. 6, s. 13, *part*; 1957, c. 2, s. 17 (3).

Local
improve-
ment and
area rates
R.S.O. 1960,
c. 223

(14) Except as provided in section 48 of *The Local Improvement Act*, no cancellation, reduction or refund under clause *a* of subsection 1 shall be made in respect of taxes levied for a local improvement or as a special area rate. 1953, c. 6, s. 13, *part*; 1958, c. 4, s. 13.

Application
for increase
of taxes
where gross
error

132.—(1) An application may be made by or on behalf of the municipal corporation to the court of revision for an increase in the taxes levied in the year in which the application is made with respect to any person who is undercharged by reason of any gross or manifest error.

Notice of
application

(2) Notice of the application shall be given by mail by the applicant to the person with respect to whom application is made not less than fourteen days before the date upon which the application is to be dealt with by the court of revision.

Powers of
court of
revision

(3) The court of revision may reject the application or may increase the taxes to the correct amount and the amount of the increase, subject to subsection 5, is collectable as if it had been originally levied and demanded.

Notice of
decision

(4) Forthwith after the court of revision makes its decision, the clerk shall cause notice thereof to be given by mail to the person with respect to whom the application was made and such notice shall state thereon that the decision may be appealed to the county judge within ten days of the mailing of such notice.

When
increase
payable

(5) The amount of any increase in taxes is not payable until ten days after the mailing of the notice under subsection 4 or, if an appeal is made to the county judge, until ten days after the decision of the county judge, and is not subject to any penalties applicable to taxes that are overdue and unpaid until such amount is payable.

Appeal

(6) An appeal may be had to the county judge by the applicant or by the person with respect to whom the application was made from the decision of the court of revision or where the court of revision has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing *de novo*.

Notice of
appeal

(7) The appellant shall personally or by his agent give notice in writing to the clerk of the municipality or to the assessment commissioner or to the person with respect to whom the application was made, as the case may be, within ten days of the mailing of the notice under subsection 4, of his intention to appeal to the county judge.

(8) The court of revision shall not deal with an application under this section if a certificate has been issued by the tax collector under section 119 before the mailing of the notice of application under subsection 2. 1958, c. 4, s. 14.

133.—(1) The treasurer shall, upon receiving the roll returned under section 127, mail or cause to be delivered a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

(2) When the auditor gives a verification notice to each person mentioned in subsection 1, the treasurer is not obliged to comply with subsection 1. 1955, c. 4, s. 26.

ARREARS OF TAXES ACCRUED ON LAND

134.—(1) In cases in which the county treasurer is required to collect arrears of taxes of a township or village, the treasurer of the township or village, as the case may be, shall within thirty days after the time appointed for the return and final settlement of the collector's roll in every year furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the collector's roll or by school trustees to be collected. R.S.O. 1950, c. 24, s. 126 (1); 1951, c. 4, s. 11 (1).

(2) Such statement shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, and the county treasurer is not bound to receive any such statement after the 7th day of June in each year. R.S.O. 1950, c. 24, s. 126 (2); 1951, c. 4, s. 11 (2); 1955, c. 4, s. 27.

(3) The treasurer in such statement and both he and all other officers of the municipality shall from time to time furnish to the county treasurer such other information as the county treasurer may require and demand in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year. R.S.O. 1950, c. 24, s. 126 (3).

135. If two or more municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the county or other treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration is situate. R.S.O. 1950, c. 24, s. 127.

All arrears
to form one
charge upon
lands

136. The county or other treasurer shall not be required to keep a separate account of the several distinct rates that may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. R.S.O. 1950, c. 24, s. 128.

After return
of roll, who
to receive
taxes

137.—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished to the county treasurer the statement mentioned in section 134, arrears of taxes may be paid to such local treasurer; but, after such statement has been returned to the county treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates. R.S.O. 1950, c. 24, s. 129 (1).

Collection
of arrears
to belong
to county
treasurer
only

(2) The collection of arrears thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section 147. R.S.O. 1950, c. 24, s. 129 (2); 1955, c. 4, s. 28.

Receiving
payments on
account of
arrears

138. The county treasurer and the treasurer of any municipality whose officers have power to sell lands for arrears of taxes may from time to time receive part payment of taxes returned to him as in arrears upon any land for any year and shall credit such payment first on account of the interest and percentage charges, if any, added to such taxes; but no such payment shall be received after a warrant has issued for the sale of the land for taxes. R.S.O. 1950, c. 24, s. 130.

DUTIES OF TREASURERS, CLERKS AND ASSESSORS

Lists of
lands three
years in
arrears for
taxes to be
furnished
to clerks

139.—(1) The treasurer of every county shall furnish to the clerk of each municipality in the county except those whose officers have power to sell lands for arrears of taxes, and the treasurer of every such last-mentioned municipality shall furnish to the clerk of the municipality (or in cities having an assessment commissioner, the treasurer of the city shall furnish to the assessment commissioner) a list of all the lands in the municipality in respect of which any taxes have been in arrears for the three years next preceding the 1st day of January in any year, and such list shall be so furnished on or before the 1st day of February in every year and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 19...*"; and, for the purpose of

the computation of such three years, the taxes for each year shall be deemed to have been in arrears on and from the 1st day of January in such year.

(2) Where in any year the list referred to in subsection 1 has been furnished to the clerk or assessment commissioner of a municipality, the treasurer who furnished the list shall not later than the 15th day of September in that year, or such earlier date as the clerk or assessment commissioner may request in writing, furnish a supplemental list to the clerk or assessment commissioner showing thereon the lands, if any, included in the earlier list that at the date of the supplemental list are no longer liable to be sold for arrears of taxes. Treasurer to furnish supplemental list of lands no longer liable to be sold
R.S.O. 1950, c. 24, s. 131.

140.—(1) The clerk of the municipality or assessment commissioner shall keep the list, so furnished by the treasurer, on file in his office, subject to the inspection of any person requiring to see it, and he shall also deliver a copy of such list to the assessor of the municipality in each year as soon as he is appointed, and it is the duty of the assessor to ascertain if any of the lots or parcels of land contained in such lists are incorrectly described and to notify the occupants and owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, or otherwise, that the land is liable to be sold for arrears of taxes, and to enter in a column to be reserved for the purpose the words "*Parties notified*" or "*Incorrectly described*", as the case may be, and all such lists shall be signed by the assessor, verified as provided in subsection 3, and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein, and the clerk shall compare the entries in the assessor's return with the assessment roll and report any differences to the assessor for verification, and the clerk shall transmit such lists and any such memorandum forthwith to the treasurer of the municipality if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, and the treasurer in either case shall attach the seal of the corporation to such lists and file them in his office for public use, and every such list or copy thereof shall be received in any court as evidence, in any case arising concerning the assessment of such lands. Clerks to keep the lists in their offices open to inspection, give copies to assessors, etc.
R.S.O. 1950, c. 24, s. 132 (1); 1955, c. 4, s. 29; 1956, c. 3, s. 19.

(2) Where in any year the clerk or assessment commissioner of a municipality is furnished with the supplemental list mentioned in subsection 2 of section 139, he shall forthwith deliver a copy thereof to the assessor and after its delivery Assessor to be furnished with copy of supplemental list of lands no longer liable to be sold

to the assessor subsections 1 and 3 cease to apply in respect of the lands shown on the supplemental list.

Assessor's
certificate

(3) The assessor shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following:

I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief.

R.S.O. 1950, c. 24, s. 132 (2, 3).

Proceedings
where any
land is found
not to have
been
assessed

141. If, on an examination of the return required under section 140 of lands liable to be sold for taxes, or otherwise, it appears to the treasurer that any land liable to assessment has not been assessed for the current year, he shall report the same to the clerk of the municipality; thereupon, or if the same comes to the knowledge of the clerk in any other manner, the clerk shall proceed as provided in section 52. R.S.O. 1950, c. 24, s. 133; 1953, c. 6, s. 14.

Offence for
neglect to
preserve list
of lands
in arrears
for taxes

142. Every clerk or assessment commissioner, as the case may be, of any municipality who neglects to preserve the list of lands in arrears for taxes, furnished to him by the treasurer, in pursuance of section 139, or to furnish copies of such lists, as required, to the assessor, and every assessor who neglects to examine the lands entered on his list, and to make returns in manner hereinbefore directed, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 24, ss. 134, 232; 1955, c. 4, s. 30.

Apportion-
ment of
taxes where
land
assessed
in block

143.—(1) When it is shown to the court of revision or to the council of a municipality that taxes or rates are or have become due upon land assessed in one block, the court or council, upon the application by the treasurer of the municipality or by or on behalf of any person claiming to be the owner of one or more parcels of the land, may, after notice of the application to all owners, direct the apportionment of the taxes or rates upon such parcels in proportion to their relative value at the time of the assessment, regard being had to all special circumstances, and the council may direct how any part payment made under section 138 is to be applied, and, upon payment of the apportionment assigned to any parcel, the payment shall be a satisfaction of the taxes or rates thereon, or the court or the council, as the case may be, may make such other direction as the case may require, and the provision herein contained is retroactive in its operation, but does not

apply to any lands that have been advertised for sale for taxes or rates.

(2) Forthwith after an apportionment has been made, the clerk shall transmit a copy of the minute or resolution to the treasurer, who, upon receipt thereof, shall enter it in his books, and thereafter each lot or other subdivision of the land affected is liable only for the amount of taxes or rates apportioned thereto, and is only liable for sale for non-payment of the tax or rate so apportioned or charged against it. R.S.O. 1950, c. 24, s. 135.

144. In municipalities having an assessment commissioner, where taxes or rates are or have become due upon land assessed in one block, the assessment commissioner, upon application by or on behalf of any person claiming to be an owner of one or more parcels of such land, may, after notice of application to all the owners, make the apportionment mentioned in subsection 1 of section 143, and thereafter the treasurer shall accept taxes or rates apportioned to any subdivision in satisfaction of the taxes or rates thereon, and each subdivision is only liable to sale for non-payment of the taxes or rates so apportioned to or charged against it. R.S.O. 1950, c. 24, s. 136.

145. An appeal may be had by any owner or owners to the court of revision from any apportionment made by any assessment commissioner under section 144, and may be had by the municipality or by any owner or owners to the judge of the county court from any decision or apportionment of the court of revision given or made on appeal from the assessment commissioner under this section or given or made by the court of revision or council under section 143. R.S.O. 1950, c. 24, s. 137.

146.—(1) The treasurer shall, on demand, give a written certified statement of the arrears due on any land, and he may charge \$1 for the search and certified statement on each separate parcel, but he shall not make any charge to any person who forthwith pays the taxes. R.S.O. 1950, c. 24, s. 138 (1); 1960, c. 3, s. 11.

(2) Such certified statement may be according to Form 6. R.S.O. 1950, c. 24, s. 138 (2).

147.—(1) The treasurer of every county shall keep a triplicate blank receipt book and, on receipt of any sum of money for taxes on land, shall deliver to the person making payment one of such receipts, and shall deliver to the treasurer

of the local municipality in which the land is situate the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the treasurer of the local municipality at least every three months.

Filing of
receipts

(2) The county treasurer shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the person making payment, the lot on which payment is made, the amount paid, the date of payment and the number of the receipt, and the auditors shall examine and audit such books and accounts at least once in every twelve months.

Treasurer
to keep
duplicate
receipt book

(3) In cities, towns and other municipalities having power to sell lands for non-payment of taxes, the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit such books and accounts at least once in every year. R.S.O. 1950, c. 24, s. 139.

As to
pretended
receipt, etc.

148. If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee or other municipal officer, the treasurer is not bound to accept it until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. R.S.O. 1950, c. 24, s. 140.

Lands on
which taxes
unpaid to be
entered in
certain
books by
treasurer

149. The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears, from the returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due, and he shall, on the 15th day of January in every year, complete and balance his books by entering against every parcel of land the arrears, if any, due at the last settlement, and the taxes of the preceding year that remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. R.S.O. 1950, c. 24, s. 141; 1957, c. 2, s. 18.

Interest
on tax
arrears

150.—(1) Notwithstanding any special Act passed before the 5th day of April, 1946, the treasurer, collector or county treasurer, as the case may be, shall add to the amount of all taxes, due and unpaid, interest at the rate of one-half of 1 per cent per month for each month or fraction thereof from the 31st day of December in the year in which the taxes are levied until the taxes are paid.

(2) No interest or percentage added to taxes shall be compounded. Interest, etc., not to be compounded

(3) Interest and percentages added to taxes form part of such taxes and shall be collected as taxes. R.S.O. 1950, c. 24, s. 142. Interest, etc., to form part of taxes

SALE OF LANDS FOR TAXES

(NOTE.—*For procedure in lieu of tax sales in certain municipalities, see The Department of Municipal Affairs Act, R.S.O. 1960, c. 98.*)

151. The treasurer shall not sell any lands for taxes that have not been included in the list furnished by him pursuant to section 139 to the clerks of the municipalities in the month of January preceding the sale. R.S.O. 1950, c. 24, s. 143. What lands only to be sold

152.—(1) Where a part of the tax on any land is in arrear for three years as provided by section 139 and subject to section 151, the treasurer shall, unless otherwise directed by by-law of the council, submit to the warden of the county a list in duplicate of all the lands liable under this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the name and address of the owner, if known, and the warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the clerk of the county and the other shall be returned to the treasurer with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding the treasurer to levy upon the land for the arrears due thereon, with his costs. When lands to be sold for taxes

(2) In municipalities whose officers have power to sell lands for arrears of taxes, the treasurer may add to the taxes shown in the list of lands liable to be sold for taxes any taxes that have fallen due since those shown in the lists furnished by the treasurer to the clerk under section 139, and have been returned by the collector to him as provided in section 133, and such lands may be sold as if such last-mentioned taxes had been included in the statement furnished to him by the clerk under section 139. R.S.O. 1950, c. 24, s. 144. Treasurer to have power to add arrears accruing after return

153. The treasurer shall, in each case, add to the arrears his commission or other lawful charges, and the costs of publication. R.S.O. 1950, c. 24, s. 145. Expenses added to arrears

By-law
extending
period of
three years,
etc.

154. The council of a county or municipality whose officers have power to sell lands for arrears of taxes may by by-law passed for that purpose, from time to time, direct that no warrant shall issue for the sale of lands for taxes until after the expiration of a longer period than that provided by section 152, and may also direct that such lands only be included in the warrant as are chargeable with arrears exceeding a certain sum to be named in the by-law, and may also direct that only such lands be included in the warrant as belong to any classification mentioned in the by-law or are of the character mentioned therein. R.S.O. 1950, c. 24, s. 146.

Distinguish-
ing lands in
list annexed
to warrant

155. In the list annexed to every warrant, the lands mentioned therein shall be distinguished as patented, unpatented, or under lease or licence of occupation from the Crown or municipality, and the interest therein, if any, of the Crown or of the municipality shall be specially mentioned. R.S.O. 1950, c. 24, s. 147.

Correction
of errors by
treasurer

156. The county treasurer may, from time to time, correct any clerical error that he discovers or that may be certified to him by the clerk of any municipality. R.S.O. 1950, c. 24, s. 148.

Where
distress on
premises,
treasurer
may
distrain

157. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he shall levy the arrears of taxes and the costs by distress, and has the same authority to collect by distress as a collector has under this Act, and section 121 applies thereto; but no sale of the land is invalid by reason of the treasurer not having distrained, though there were on the land goods and chattels liable to distress before or at the time of sale. R.S.O. 1950, c. 24, s. 149.

Treasurer's
duty on
receiving
warrant to
sell

158. A treasurer is not bound to make inquiry, before effecting a sale of land for taxes, to ascertain whether or not there is any distress upon the land, or to inquire into or form any opinion of the value of the land. R.S.O. 1950, c. 24, s. 150.

Treasurer
to prepare
list of lands
to be sold

159.—(1) The treasurer shall prepare a copy of the list of lands annexed to the warrant and shall add thereto in a separate column a statement of the proportion of costs chargeable on each lot for advertising and for his commission or other lawful charges, distinguishing therein any of such lands that are unpatented or under lease or licence of occupation from the Crown as “unpatented” or “under Crown lease” or “under Crown licence”, as the case may be, and such list shall contain a notice that, unless the arrears of

taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place specified therein.

(2) Such list shall be published in *The Ontario Gazette* once ^{Publication} during the month immediately preceding the period of time mentioned in section 160.

(3) A notice, stating that copies of the list of lands for ^{Publication of list and notice of sale} sale for arrears of taxes may be had in the office of the treasurer and that such list has been published in *The Ontario Gazette* on the day specified in such notice and that, unless the arrears of taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place named therein, shall be published once a week for the thirteen weeks immediately preceding the day of sale in at least one newspaper published in the county or in the case of a union of counties in at least one newspaper published in each county of the union, or where the sale is to be held by the treasurer of a municipality in at least one newspaper published in the municipality and if no newspaper is published in the county or municipality then in at least one newspaper published in an adjacent county or municipality. R.S.O. 1950, c. 24, s. 151.

160. The day of the sale shall be more than ninety-one ^{Time of sale} days after the first publication of the list in *The Ontario Gazette*. R.S.O. 1950, c. 24, s. 152.

161. The treasurer of a county shall also post a printed ^{Notice to be posted up} copy of the list published in the newspaper in some convenient and public place at the court house of the county or district at least three weeks before the time of sale and the treasurer of a municipality other than a county shall also post a printed copy of such list in some convenient and public place at the place where the council of the municipality usually meets at least three weeks before the time of sale. R.S.O. 1950, c. 24, s. 153.

162.—(1) For the purpose of tax sales, the Lieutenant ^{Tax sale districts} Governor in Council may by Order in Council divide a provisional judicial district, and the council of any county may by by-law divide the county, into tax sale districts, each of which may contain one or more municipalities.

(2) The Order in Council or by-law may provide that there- ^{Place of sales therein} after the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the tax sale district as may be named in the Order in Council or by-law.

(3) Where any such Order in Council or by-law is passed, ^{Payment of expenses} provision shall be made therein, or by further Order in Council

or by-law, respecting the payment to the treasurer of his travelling and other expenses connected with his attending tax sales.

Advertise-
ment, what
to contain

(4) Every advertisement or notice of a tax sale shall state the name or number of the tax sale district and the place therein at which the sale will be held. R.S.O. 1950, c. 24, s. 154.

Adjourning
sale, if no
bidders

163. If at any time appointed for the sale of the lands no bidders appear, the treasurer may adjourn the sale from time to time. R.S.O. 1950, c. 24, s. 155.

Mode in
which the
lands shall
be sold
by the
treasurer

164.—(1) If the full amount of the taxes for which the land was offered for sale has not been collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first, and, in offering or selling such lands, it is not necessary to describe particularly the portion of the lot that is to be sold, but it is sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes, and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 182, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3.

When land
does not
sell for full
amount of
taxes

(2) If the treasurer fails at such sale to sell any land for the full amount of taxes, including the full amount of commission and other lawful charges and costs added under section 153, he shall at such sale adjourn it until a day then to be publicly named by him, not earlier than a week nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the council of the municipality in which they are situate, for any sum he can realize, and

shall accept such sum as full payment of such taxes; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 182, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3.

(3) If the price offered for any land at the adjourned sale is less than the full amount of the taxes for which the land was offered for sale and the charges and costs, or if no price is offered, it is lawful for the municipality to purchase the land for the amount due, provided that an appropriation has been made for the purpose and that previous notice by public advertisement in the local newspaper or in one of the local newspapers in which the original sale was advertised of intention so to do has been given by the treasurer; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of the sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 182, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, and such taxes shall be computed at the rate fixed by by-law for each year in which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontages shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement. R.S.O. 1950, c. 24, s. 156.

165.—(1) Notwithstanding section 164, the treasurer is not obliged to sell for taxes only a portion of land separately assessed but may sell the whole of such land for the best price

Purchase by
municipality

Mode of
selling land
for taxes

offered at the sale, and any money obtained by the treasurer as the price of such land shall be applied, firstly, in paying the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and, secondly, in payment of the taxes, including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land, and the balance, if any, shall be paid by the treasurer to the owner of the land or to such other person as may be authorized by law to receive the balance less such charge and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the balance, and it is the duty of the person claiming the balance to produce to the treasurer proof of his right to receive the balance; provided that the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the purchase price, together with 10 per cent of the full amount of the taxes for which the land was offered for sale and of the expenses of sale added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection 2 of section 182, and the balance, if any, outstanding of the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 2 of section 164, but if the purchaser is the municipality redemption as aforesaid may be made upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and together with 10 per cent added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection 2 of section 182, and together with the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3 of section 164. R.S.O. 1950, c. 24, s. 157 (1); 1954, c. 3, s. 10.

Unclaimed
balances

(2) Any balance payable to the owner of the land sold or to any other person entitled thereto shall, if not claimed within six years after the sale, belong to the municipality absolutely.

Purchase by
municipality

(3) Where an appropriation has been made for the purpose, the municipality may purchase lands under this section. R.S.O. 1950, c. 24, s. 157 (2, 3).

166. If a purchaser fails to pay his purchase money immediately, the treasurer shall forthwith again put up the property for sale. R.S.O. 1950, c. 24, s. 158.

When purchaser fails to pay purchase money

167.—(1) Where the Crown whether as represented by the Government of Canada or the Government of the Province of Ontario, or any tribe or body of Indians or any member thereof, has an interest in any land in respect of which taxes are in arrear, the interest only of persons other than the Crown, tribe or body of Indians or any member thereof, therein is liable to be sold for arrears of taxes.

Land in which the Crown has an interest

(2) Where the treasurer so sells the interest of any person, it shall be distinctly expressed, in the tax deed to be made under this Act to the purchaser, that the sale is only of the interest of such person in the land, and (whether so expressed or not) the tax deed in no wise affects the interest or rights of the Crown or tribe or body of Indians or any member thereof in the land sold, and gives the purchaser the same interest and rights only in respect of the land as the person had whose interest is being sold.

Tax deed not to affect interest of Crown

(3) Where the interest so sold of any person is that of a lessee, licensee or locatee, the tax deed is valid without requiring the consent of the Minister of Lands and Forests. R.S.O. 1950, c. 24, s. 159.

Validity of tax deed

168. No person is entitled to purchase at a sale for taxes, under section 164 or from a municipality that has purchased land thereunder, more unpatented land in the free grant districts than a locatee is entitled to obtain or hold under Part II of *The Public Lands Act*. R.S.O. 1950, c. 24, s. 160.

Land purchased at tax sales not to exceed limit fixed by R.S.O. 1960, c. 324

169. No sale for taxes shall be made of unpatented land in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no *bona fide* improvements have been made by or on behalf of the locatee. R.S.O. 1950, c. 24, s. 161.

Sales not to be made where taxes less than \$10, or no improvements made

170. All lands in the free grant districts purchased under sale for taxes are subject to all the terms and conditions as to settlement or otherwise required by Part II of *The Public Lands Act*, unless under special circumstances the Minister of Lands and Forests sees fit to dispense therewith in whole or in part. R.S.O. 1950, c. 24, s. 162.

Lands purchased to be subject to conditions of R.S.O. 1960, c. 324

Sale of
interest of
lessee or
tenant of
municipal
property

171. If the treasurer sells any interest in land of which the fee is in the municipality in respect of which the taxes accrue, he shall only sell the interest therein of the lessee or tenant, and it shall be so distinctly expressed in the tax deed. R.S.O. 1950, c. 24, s. 163.

Sale of
lands for
taxes not to
affect col-
lection of
other rates

172. No sale of lands for taxes or for rates under a drainage or local improvement by-law invalidates or in any way affects the collection of a rate that has been assessed against or imposed or charged upon such lands prior to the date of the sale, but that accrues or becomes due and payable after the rates or taxes in respect of which the sale is had, became due and payable or after the sale. R.S.O. 1950, c. 24, s. 164.

CERTIFICATE OF SALE—TAX DEED

Treasurer
selling to
give pur-
chaser a
certificate of
land sold

173. The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the land to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 164 and 167, will be executed by the treasurer and warden on demand, at any time after the expiration of the period hereinafter provided for redemption. R.S.O. 1950, c. 24, s. 165.

Purchaser
of lands
deemed
owner for
certain
purposes

174.—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the land from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

Limitation
of liability

(2) The purchaser is not liable for damage done to the property without his knowledge during the time the certificate is in force.

Repairs

(3) Where the purchaser is a municipality, it may make any expenditure necessary in order to keep the land in a proper state of repair or to insure the land, and the amount thereof with interest as provided in section 150 may be added

to the amount required to redeem the land, provided that the treasurer has sent at least one month before making such expenditure a notice containing the particulars of the proposed expenditure and an estimate of the cost thereof to each encumbrancer, if any, and to the registered owner by registered mail to the address of such encumbrancer or owner if known to the treasurer and, if such address is not known to the treasurer, then to any address of such encumbrancer or owner appearing in the records of the registry office or sheriff's office. R.S.O. 1950, c. 24, s. 166.

175. From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser ceases to have any further right in or to the land in question. R.S.O. 1950, c. 24, s. 167. Effect of tender of arrears, etc.

176. Every treasurer is entitled to $2\frac{1}{2}$ per cent commission upon the sums collected by him, as aforesaid, except that, where the taxes against any parcel of land are less than \$10, the treasurer is entitled to charge, in lieu of his commission, 25 cents; but where the treasurer is paid a salary for his services such commission may, by arrangement with the council, be paid into the funds of the municipality like any other revenue of the municipality. R.S.O. 1950, c. 24, s. 168. Treasurer's commission

177. Where land is sold by a treasurer according to section 159 and the following sections of this Act, he may add the commission and other charges that he is authorized by this Act to charge for the services above-mentioned to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale of the arrears and costs incurred. R.S.O. 1950, c. 24, s. 169. Fees, etc., on sales of land

178. The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and, if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground, and he may make search, if necessary, in the registry office to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, and the charges so incurred shall be included in the account and paid by the purchaser of the land sold or the person redeeming the land. R.S.O. 1950, c. 24, s. 170. Expenses of search in registry office for description, etc.

Treasurer
entitled to
no other
fees

179. Except as hereinbefore provided, the treasurer is not entitled to any other fees or emoluments for any services rendered by him relating to the collection of arrears of taxes on lands. R.S.O. 1950, c. 24, s. 171.

Evidence of
redemption

180. The treasurer shall give to the person paying redemption money a receipt stating the sum paid and the object of payment, and such receipt is evidence of the redemption. R.S.O. 1950, c. 24, s. 172.

Conveyance
to former
owner

181.—(1) Notwithstanding the other provisions of this Act or any other Act, where land that has been sold for taxes has been purchased by the municipality and the period for redemption has expired and where such land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 2 of section 182 is, at any time with the approval of the Department, entitled to a conveyance of such land upon payment of the full amount that would have been payable in respect of taxes, penalties and interest had the land not been sold for taxes, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such sale and of such conveyance. R.S.O. 1950, c. 24, s. 173.

Further
notice

(2) Notwithstanding subsection 1, the treasurer may, at any time after the expiration of ten years from the date of the sale, cause to be sent by registered mail, to each person to whom notice was sent under subsection 2 of section 182, a further notice that, if he does not apply for a conveyance of the land under subsection 1 and tender the payment required under subsection 1 within six months of the date the notice is sent, his right to do so will expire.

Cessation
of rights
under
subs. 1

(3) If a person notified under subsection 2 does not apply for a conveyance and tender the payment required under subsection 1 within such six months, his right to do so ceases to exist. 1952, c. 3, s. 20.

Treasurer to
search title

182.—(1) Within ninety days from the day of sale, the treasurer shall, if the land is not previously redeemed, make or cause to be made search in the registry office and in the sheriff's office to ascertain whether or not there are mortgages or other encumbrances affecting the land sold and who is the registered owner of the land.

(2) The treasurer shall, within the said period of ninety days from the day of sale, if the land is not previously redeemed, send to each encumbrancer, if any, and to the registered owner, by registered mail to the address of such encumbrancer or owner if known to the treasurer, and, if such address is not known to the treasurer, then to any address of such encumbrancer or owner appearing in records of the registry office or sheriff's office, a notice stating that the land has been sold for taxes, the date of the sale, and that the encumbrancer or owner is at liberty within one year from the day of sale, exclusive of the day of sale, to redeem the estate sold by paying to the treasurer the amount required to redeem the estate and the amount of the charges for the searches aforesaid and for registration of the notice mentioned in subsection 3 and postage and 25 cents for the notice, the amount aforesaid to be specified in the notice.

Notice to
encum-
brancer
and owner

(3) The treasurer shall within ninety days from the date of sale register in the registry office a written notice stating that the land described therein has been sold for taxes, the date of the sale, the time within which the land may be redeemed and the amount required to redeem the land, and for registration of such notice the registrar shall be paid a fee of \$1.

Registration
of notice
of sale

(4) The notice mentioned in subsection 3 shall have attached thereto or endorsed thereon a statutory declaration of the treasurer setting forth the names and addresses of all persons to whom he has sent the notice required by subsection 2 and the date of sending the notice to each such person.

Registered
notice to be
verified by
affidavit as
to sending
of notices

(5) If within the time aforesaid payment of the amount is made by any such encumbrancer or by the owner of the land, the treasurer shall give to the person making the payment a receipt stating the sum paid and the object of the payment, and it is evidence of the redemption, and any encumbrancer making the payment may add the amount to his debt.

Receipts if
arrears paid

(6) In case of payment by the owner, the receipt shall be given to him and, in case of payment by one or more encumbrancers and not by the owner, the receipt shall be given to that encumbrancer who is first in priority, and the amount paid by other persons shall be repaid to them.

Who to be
entitled to
receipt

(7) If under subsection 3 a notice of sale of land for taxes has been registered and the land is redeemed, the treasurer shall, upon payment of the redemption money, deliver to the person paying the money a receipt signed by himself stating therein a description of the land redeemed, the person who

Receipt of
redemption

redeemed the land and the date and amount paid for redemption together with particulars of the registration of the notice, and a certified copy thereof shall be registered in the registry office by the treasurer, and for registration of such receipt the registrar shall be paid a fee of 50 cents.

Execution
and delivery
of deed

(8) If the redemption money is not paid within the time aforesaid, the treasurer upon payment of such charges for searches, postage and notice and \$1 for the deed shall with the warden execute and deliver to the purchaser or his assigns or other legal representatives a tax deed in duplicate of the land sold.

Deed may
include
several lots

(9) Such deed, if requested, may include any number of lots that are to be conveyed to the same person.

Late searches
and notices

(10) In any case where the treasurer fails to comply with the provisions of subsection 1 or 2 as to the time from the day of sale within which a search in the registry office and sheriff's office is made or notices to any encumbrancer and to the registered owner are sent, he may subsequently make or cause to be made the said search and send the notice, provided that in such case the time for redemption shall be within nine months from the day upon which the notice is sent and the notice shall so state. R.S.O. 1950, c. 24, s. 174.

Interpre-
tation

183. The words "treasurer" and "warden" in section 182 mean the person who at the time of the execution of the deed mentioned in that section holds such office. R.S.O. 1950, c. 24, s. 175,

Application
of redemp-
tion money

184.—(1) Out of the redemption money, the treasurer shall pay to the purchaser (not being the municipality) or his assigns or other legal representatives,

- (a) the sum paid by him together with 10 per cent of the full amount of the taxes for which the land was offered for sale; or
- (b) if the sum paid by the purchaser was less than the amount of taxes for which the land was offered for sale, the sum paid by him together with 10 per cent of such sum,

and the balance less the lawful costs, charges and expenses of the treasurer belongs to the municipality. 1955, c. 4, s. 31.

Where muni-
cipality is
purchaser

(2) Where the municipality is the purchaser, the whole of the redemption money belongs to it less the lawful costs, charges and expenses of the treasurer. R.S.O. 1950, c. 24, s. 176 (2).

185.—(1) The tax deed shall be according to Form 7, or to the same effect, and shall state the date and cause of the sale, and the price, and shall describe the land according to section 178, and has the effect of vesting the land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold, and no such deed is invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as “patented” or “unpatented” or “held under a licence of occupation” or “held under lease” or otherwise.

Contents of
deed and
effect
thereof

(2) Notwithstanding subsection 1, a tax deed is not valid unless there is affixed thereto a statutory declaration of the treasurer that he has sent to the encumbrancers and registered owner the notice as provided in section 182, and such declaration shall form part thereof, and, where the tax deed has been registered, the treasurer shall deposit the declaration in the proper registry or land titles office where it shall be attached to the tax deed of the land in respect of which it was made. R.S.O. 1950, c. 24, s. 177.

Declaration
of
treasurer

186. As respects land sold for taxes before the 1st day of January, 1851, on the receipt by the registrar of the proper county or place of a certificate of the sale to the purchaser under the hand and seal of office of the sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the sheriff to the purchaser, his heirs, executors, administrators or assigns, such registrar shall register any sheriff's deed of land sold for taxes before the 1st day of January, 1851, and the mode of such registry shall be the entering on record of a transcript of such deed or conveyance. R.S.O. 1950, c. 24, s. 178.

On what
certificate
registrars to
register
sheriff's
deeds of
land sold
for taxes
before 1851

187. As respects land sold for taxes after the 1st day of January, 1851, and prior to the 1st day of January, 1866, the sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed, containing the particulars mentioned in the last section, and such certificate, for the purpose of registration in the registry office of the proper registry division of any deed of lands so sold for taxes, shall be deemed a memorial thereof, and the deed shall be registered, and a certificate of the registry thereof shall be granted by the registrar, on production to him of the deed and certificate,

Sheriff to
give cer-
tificate of
execution of
conveyances
after 1st
January,
1851, and
before 1st
January,
1866, for
registration

without further proof, and the registrar, for the registry and certificate thereof, is entitled to 70 cents and no more. R.S.O. 1950, c. 24, s. 179.

Treasurer
to enter in
a book
descriptions
of lands
conveyed to
purchasers

188. The treasurer shall enter in a book, which the county council or council of the city or town, as the case may be, shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall together with all documents relating to lands sold for taxes be kept by him among the records of his office. R.S.O. 1950, c. 24, s. 180.

Deed to be
binding if
land not
redeemed in
one year

189. If any part of the taxes for which any land has been sold in pursuance of any Act heretofore in force in Ontario or of this Act had at the time of the sale been in arrear for three years as mentioned in section 139, and the land is not redeemed in one year after the sale, such sale, and the official deed to the purchaser (provided the sale was openly and fairly conducted) is, notwithstanding any neglect, omission or error of the municipality or of any agent or officer thereof in respect of imposing or levying such taxes or in any proceedings subsequent thereto, final and binding upon the former owner of the land and upon all persons claiming by, through or under him, it being intended by this Act that the owner of land shall be required to pay the taxes thereon within three years after the taxes are in arrear or redeem the land within one year after the sale thereof, and, in default of the taxes being paid or the land being redeemed as aforesaid, the right to bring an action to set aside the deed or to recover the land is barred. R.S.O. 1950, c. 24, s. 181.

Deed valid
if not
questioned
within a
certain time

190. Where land is sold for taxes and a tax deed thereof has been executed, the sale and the tax deeds are valid and binding, to all intents and purposes, except as against the Crown, unless questioned before some court of competent jurisdiction within two years from the time of sale. R.S.O. 1950, c. 24, s. 182.

Certain
treasurer's
deeds not to
be invalid if
the sale is
valid

191. In all cases where land has been validly sold for taxes, the conveyance by the officer who made the sale, or by his successors in office, is not invalid by reason of the statute under the authority whereof the sale was made having been repealed at or before the time of such conveyance, or by reason of the officer who made the sale having gone out of office. R.S.O. 1950, c. 24, s. 183.

Rights of
entry ad-
verse to tax
purchaser

192. In all cases where land is sold for arrears of taxes whether such sale is or is not valid, then so far as regards

rights of entry adverse to a *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 10 of *The Conveyancing and Law of Property Act* R.S.O. 1960, c. 66 does not apply, to the end and intent that in such cases the right or title of a person claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the Common Law and 32 H. VIII, c. 9, ss. 2, 4 and 6, revived 32nd year of the reign of King Henry VIII, and chaptered 9, be revived, and the same are and shall continue to be revived. R.S.O. 1950, c. 24, s. 184.

193.—(1) In all cases not being within any of the exceptions and provisions of subsection 3, where land having been legally liable to be assessed for taxes is sold for arrears of taxes, then, in case an action is brought for the recovery of the land and the sale is held to be invalid, damages shall be assessed for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid by the defendant in respect of the lands since the sale and interest thereon, and of the value of any improvements made by the defendant before the commencement of the action, or by any person through or under whom he claims, less all just allowances for the timber sold off the lands, and all other just allowances to the plaintiff, and the value of the land to be recovered shall also be assessed less the value of any such improvements. Adjustment of damages when sale held to be invalid

(2) If a judgment is pronounced for the plaintiff, no writ of possession shall issue until the expiration of one month thereafter nor until the plaintiff has paid into court for the defendant the amount of such damages, or, if the defendant desires to retain the land, he may retain it, on paying into court within such period of one month, or on or before any subsequent day to be appointed by the court, the value of the land as assessed at the trial; after which payment no writ of possession shall issue, but the plaintiff, on filing in court for the defendant a sufficient release and conveyance to the defendant of his right and title to the land in question, is entitled to the money so paid in by the defendant. Plaintiff to pay damages into court before writ of possession issues, or tax purchaser may elect to retain the land on paying its value

(3) This section does not apply in the following cases:

- (a) if the taxes for non-payment whereof the land was sold have been fully paid before the sale; When section not to apply: if taxes paid before sale
- (b) if, within the period limited by law for redemption, the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the if land redeemed

person entitled to receive such payment, with a view to the redemption of the lands;

in case
of fraud

- (c) where, on the ground of fraud or evil practice by the purchaser at such sale, a court would grant equitable relief. R.S.O. 1950, c. 24, s. 185.

Where the
plaintiff is
not tenant
in fee,
the value
of the land
to be
paid into
Supreme
Court

194.—(1) In any of the cases named in section 193, wherein the plaintiff is not tenant in fee simple, the payment into court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Supreme Court, and the plaintiff and all parties entitled to and interested in the lands, as against the purchaser at such sale for taxes, on filing in the Supreme Court a sufficient release and conveyance to the defendant of their respective rights and interests in the land, are entitled to the money so paid in such proportions and shares as to the Supreme Court, having regard to the interests of the various parties, seems proper.

Payment
into court
where the
defendant is
not tenant
in fee

- (2) In any of such cases wherein the defendant is not tenant in fee simple, the payment of damages into court to be made as aforesaid by the plaintiff shall be into the Supreme Court. R.S.O. 1950, c. 24, s. 186.

Any other
person
interested
may pay
in value
assessed if
defendant
does not

195.—(1) If the defendant does not pay into court the value of the land assessed as aforesaid, within the period of one month, or on or before any subsequent day appointed by the court, as mentioned in subsection 2 of section 193, any other person interested in the land under the sale or conveyance for taxes may, within ninety days after the date of the pronouncing of the judgment mentioned in subsection 2 of section 193, or before any subsequent day appointed by the court as mentioned in that subsection for payment by the defendant, pay into the court the said value of the land, and till the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

Payer to
have lien
for such
proportion
as exceeds
his interest

- (2) The defendant or other person so paying in is entitled, as against all others interested in the land under the sale or conveyance for taxes, to a lien on the land for such amount as exceeds the proportionate value of his interest enforceable in such manner and in such shares and proportions as to the Supreme Court, having regard to the interests of the various parties, and on hearing the parties, seems fit. R.S.O. 1950, c. 24, s. 187.

196. If the defendant or any other person interested pays into court in manner aforesaid, the plaintiff is entitled to the amount so paid in on filing in court a sufficient release and conveyance to the person so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such person to secure his lien as aforesaid. R.S.O. 1950, c. 24, s. 188.

197. If the value of the land is not paid into court as above provided, the damages paid into the Supreme Court shall be paid out to the various persons who, if the sale for taxes were valid, would be entitled to the land, in such shares and proportions as to the Supreme Court, having regard to the interests of the various parties, seems fit. R.S.O. 1950, c. 24, s. 189.

198.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple, and the defendant (if his title were good) would be also so entitled, if the defendant at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named in the writ of the amount claimed, and that on payment of such amount the defendant or person in possession will surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay the court a sum mentioned in such notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff, and if the jury, or the judge, if there be no jury, before whom the action is tried, assesses damages for the defendant as provided in sections 193 to 197 and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or to obtain damages, the judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant is entitled to the costs of the defence in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

(2) If on the trial it is found that such notice was not given as aforesaid, or if the judge or jury assesses for the defendant a less amount than that claimed in the notice, or finds that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the land) that the value of the land is greater than the amount mentioned in the notice, or that he has omitted to pay into court the amount mentioned in the notice for thirty days after the plaintiff had given to the defendant a written notice that he

did not intend to contest the value of the land, the judge shall not certify, and the defendant is not entitled to the costs of the defence, but shall pay costs to the plaintiff and, upon the trial of any action after such notice, no evidence shall be required in proof of the title of the plaintiff. R.S.O. 1950, c. 24, s. 190.

Tax purchaser without other remedy whose title is invalid to have a lien for purchase money, etc.

199. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser has a lien on the lands for the purchase money paid at the sale, and interest thereon at the rate of 10 per cent per annum, and for the taxes paid by him since the sale and interest thereon at the rate aforesaid, to be enforced against the land in such proportions as regards the various owners and in such manner as the Supreme Court thinks proper. R.S.O. 1950, c. 24, s. 191.

Contracts between tax purchaser and original owner continued

200. No valid contract entered into between any tax purchaser and original owner, in regard to any land sold or assumed to have been sold for taxes as to purchase, lease or otherwise, is annulled or interfered with by this Act, but such contract and all consequences thereof, as to admission of title or otherwise, remain in force as if this Act had not been passed. R.S.O. 1950, c. 24, s. 192.

Sections 192 to 200 not to apply where the owner has occupied since sale

201. Nothing in sections 192 to 200 affects the right or title of the owner of any land sold for taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the land has since the sale been in the occupation of such owner or of those claiming through or under him. R.S.O. 1950, c. 24, s. 193.

Construction of "tax purchaser", "original owner"

202. In the construction of sections 191 to 201, occupation by a tenant shall be deemed the occupation of the reversioner, and the words "tax purchaser" apply to any person who purchases at any sale under colour of any statute authorizing sale of land for taxes and includes and extends to all persons claiming through or under him, and the words "original owner" include and extend to any person who, at the time of such sale, was interested in or entitled to the land sold, or assumed to be sold, and to all persons claiming through or under him. R.S.O. 1950, c. 24, s. 194.

Where tax arrears procedures of R.S.O. 1960, c. 98, in effect

203. Where the tax arrears procedures under *The Department of Municipal Affairs Act* are in effect in a municipality as defined in that Act, it is not necessary for the treasurer or other officer of the municipality to furnish to the county treasurer or sheriff any of the information or statements

required under this Act in respect of tax arrears, and the powers and duties of the warden or treasurer of a county or sheriff under this Act in respect of tax arrears and tax sales do not apply in respect of the municipality, and all the powers and duties of the county treasurer or sheriff in respect of arrears of taxes are vested in the treasurer of the municipality. R.S.O. 1950, c. 24, s. 195.

204. In cities and towns, arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities, and for such purposes the municipal officers of cities and towns shall perform the same duties and have the same powers as the like officers in other municipalities under sections 134 to 202, and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively and have the like powers, and words referring to the county treasurer or warden shall as to a city or town be taken and deemed to refer to the mayor and treasurer of such city or town, provided that in cities and towns the performance of any such duty after the date or within a longer time than hereinbefore set out does not render any proceedings under this Act invalid or illegal so long as the provisions of this Act are in other respects duly complied with. R.S.O. 1950, c. 24, s. 196.

Collection
of arrears
of taxes
in cities
and towns

205.—(1) All powers conferred upon cities and towns by section 204, or any of the sections referred to in that section, and all duties imposed by such sections upon the officers of such cities and towns and the mayors thereof, shall hereafter be vested in and apply to the Townships of York, Scarborough and Etobicoke in the County of York, to the Townships of Bertie, Crowland and Stamford in the County of Welland and to the Township of Barton in the County of Wentworth, and to the reeves of such townships, and, for the purposes of the collection of arrears of taxes on lands therein and the sale of such lands for taxes, such townships shall be considered as towns, and, where the word “town” occurs in any of such sections, it shall be held to apply to and include such townships, and, where the word “mayor” occurs in such sections, it shall be held to apply to the reeve of each of such townships for the time being.

Sale of land
for taxes in
certain
townships

(2) The council of a county may by by-law declare that subsection 1 shall thereafter apply to any township or village named in the by-law, and thereupon the powers conferred on cities and towns by section 204, or any of the sections referred to in that section, and all duties imposed by such sections

County
by-law
extending
application
of section

upon the officers of such cities and towns and the mayors thereof, are vested in and apply to the corporation of such township or village and to the reeve or other head thereof, in the same manner and to the same extent as in the case of the municipalities mentioned in subsection 1. R.S.O. 1950, c. 24, s. 197.

Collection of
taxes and
sales of land
for taxes in
districts

206. Arrears of taxes due to the corporation of any municipality in a provisional judicial district shall be collected and managed in the same way as like arrears due to municipalities in counties, and the treasurer and head of such municipality shall perform the like duties in the collection and management of arrears of taxes as are performed in a county by the treasurer and warden. R.S.O. 1950, c. 24, s. 198.

Where
deficiency
occurs

207. Every municipal council in paying over any rate to a body for which it is required by law to levy rates or raise money shall, except where otherwise provided, supply out of the funds of the corporation any deficiency caused by the non-payment of taxes and, where any deficiency is caused by the abatement or refund of or inability to collect taxes, the council shall charge back a proportionate share thereof to every such body. R.S.O. 1950, c. 24, s. 199; 1955, c. 4, s. 32.

ARREARS OF TAXES IN NEW MUNICIPALITIES

On incor-
poration of
a town,
county
treasurer to
transmit list
of arrears
to town
treasurer

208. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situated in the newly incorporated town, and shall transmit the list to the treasurer of the town, who after receipt thereof has, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in the list the county treasurer shall not include any lot then advertised for sale for taxes. R.S.O. 1950, c. 24, s. 200.

Arrears of
taxes, how
collected
where new
municipality
formed

209. In cases where a new local municipality is formed from two or more municipalities or portions of two or more municipalities situated in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town, and, for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached shall immediately upon the formation thereof make

out lists of the arrears of taxes then due in their respective portions, and transmit the lists to the treasurer of the county in which the new municipality is situate, or of the town as the case may be, and, where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. R.S.O. 1950, c. 24, s. 201.

210. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, have power, respectively, to take for the collection of such arrears of taxes all the proceedings that treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrear for taxes, and, if the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if the new municipality had not been formed. R.S.O. 1950, c. 24, s. 202.

211. Where a municipality or part of a municipality has been or is hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and warden of the county to which the territory belongs have power respectively to take all the proceedings that treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but, if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. R.S.O. 1950, c. 24, s. 203.

212. Where a municipality or any part of a municipality has been or is hereafter separated from a county and included in a city or town separated from the county for municipal purposes, after a return has been made to the treasurer of the county of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the county, such treasurer shall return to the treasurer of the city or town a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and

mayor of the city or town have the power to take all the proceedings that treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but, if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. R.S.O. 1950, c. 24, s. 204.

RESPONSIBILITY OF OFFICERS

Offence for
officers
failing to
perform
their duty

213. Every treasurer, assessor, clerk or other officer who refuses or neglects to perform any duty required of him by this Act, for which no other penalty is imposed, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 24, ss. 205, 232.

Other
assessors
may act for
those in
default

214. If an assessor neglects or omits to perform his duties, the other assessor, or other assessors (if there be more than one for the same locality) or one of such assessors, shall, until a new appointment, perform the duties, and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties, and the assessor so appointed has all the powers and is entitled to all the emoluments that appertain to the office. R.S.O. 1950, c. 24, s. 206.

Offence for
unjust or
fraudulent
assessment

215. Every clerk, treasurer, assessment commissioner, assessor or collector, and every assistant or other person in the employment of the municipality, acting under this Act, who makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts or permits to be inserted therein the name of any person that should not be entered, or fraudulently omits or allows to be omitted the name of any person that should be entered, or wilfully omits any duty required of him by this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1950, c. 24, ss. 207, 232.

Disclosure
of
information

216.—(1) Every assessment commissioner or assessor or other person in the employ of a municipality who in the course of his duties acquires or has access to information furnished by any person pursuant to section 16 or 17, that relates in any way to determination of the value of any real property or the amount of assessment thereof or to the determination of the amount of any business assessment, and who wilfully discloses or permits to be disclosed any such information not

required to be entered on the assessment roll to any other person not likewise entitled in the course of his duties to acquire or have access to the information, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1950, c. 24, ss. 208 (1), 232.

(2) This section does not prevent disclosure of such information by any person when being examined as a witness in an assessment appeal or in an action or other proceeding in a court or in an arbitration. R.S.O. 1950, c. 24, s. 208 (2). Exception

217. Every assessor of a township, village or ward who neglects or omits to make out and complete his assessment roll for the township, village or ward and to return it to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll within the prescribed period, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 24, ss. 209, 232. Offence for neglect to make out roll

218. If a collector refuses or neglects to pay the sums contained in his roll to the proper treasurer or other person legally authorized to receive the same, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant under his hand and seal directed to the sheriff of the county or city, as the case may be, commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. R.S.O. 1950, c. 24, s. 210. Proceedings for compelling collectors to pay over moneys collected to the proper treasurer

219. The treasurer shall immediately deliver the warrant to the sheriff of the county or city, as the case may require. R.S.O. 1950, c. 24, s. 211. Warrant to be delivered to sheriff, etc.

220. The sheriff to whom the warrant is directed shall, within forty days, cause the warrant to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of courts of record. R.S.O. 1950, c. 24, s. 212. Sheriff to execute warrant and pay money levied

221. If a sheriff refuses or neglects to levy any money when so commanded, or to pay over the money, or makes a false return to the warrant, or neglects or refuses to make Mode of compelling sheriff to pay over

any return, or makes an insufficient return, the treasurer may, upon affidavit of the facts, apply in a summary manner to the Supreme Court or a judge thereof for an order *nisi* or summons calling on the sheriff to answer the matter of the affidavit. R.S.O. 1950, c. 24, s. 213.

When re-
turnable

222. The order *nisi* or summons is returnable at such time as the court or judge directs. R.S.O. 1950, c. 24, s. 214.

Hearing
on return

223. Upon the return of the order *nisi* or summons, the court or judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matter of the application. R.S.O. 1950, c. 24, s. 215.

Fi. fa. to
the coroner
to levy the
money

224. If the court or judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the court or judge shall order the proper officer of the court to issue a writ of *fi. fa.*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town, as the case may be, for which the collector is in default. R.S.O. 1950, c. 24, s. 216.

Tenor of
such writ
and
execution
thereof

225. The writ shall direct the coroner to levy of the goods and chattels of the sheriff the sum that the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution, and the writ shall bear date on the day of its issue, and is returnable forthwith on its being executed, and the coroner, upon executing the writ, is entitled to the same fees as upon a writ grounded upon a judgment of the court. R.S.O. 1950, c. 24, s. 217.

Offence for
sheriff
neglecting to
perform duty

226. Every sheriff who wilfully omits to perform any duty required of him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 24, ss. 218, 232.

Payment
of money
collected
for the
Province

227. All money assessed, levied and collected for the purpose of being paid to the Treasurer of Ontario, or to any other public officer, for the public uses of Ontario, or for any special purpose or use mentioned in the Act under which the money is raised, shall be assessed, levied and collected by, and accounted for and paid over to, the same persons, in the same manner and at the same time as taxes imposed on the same property for county, city or town purposes and shall be deemed and taken to be money collected for the county, city or town, so far as to charge every collector or treasurer with the same, and to render him and his sureties responsible therefor, and

for every default or neglect in regard to the same, in like manner as in the case of money assessed, levied and collected for the use of the county, city or town. R.S.O. 1950, c. 24, s. 219.

228. All money collected for county purposes or for any of the purposes mentioned in section 227 is payable by the collector to the township, town or village treasurer, and by him to the county treasurer, and the corporation of the township, town or village is responsible therefor to the corporation of the county. R.S.O. 1950, c. 24, s. 220.

How money collected for county purposes to be paid over

229. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, to account for and pay over all money collected or received by him, applies to money collected or received for county purposes or for any of the purposes mentioned in section 236. R.S.O. 1950, c. 24, s. 221.

Collectors or treasurers bound to account for all money collected by them

230.—(1) The treasurer of every township, town or village shall, on or before the 20th day of December in each year, pay to the treasurer of the county all moneys that were assessed and by law required to be levied and collected in the municipality for county purposes or for any of the purposes mentioned in section 227, and, in case of non-payment of such moneys or any portion thereof on or before such date, the township, town or village so in default shall pay to the county interest thereon at the rate of 6 per cent per annum from such date until payment is made.

Local treasurer to pay over county moneys to county treasurer

(2) The council of a county may by by-law provide for a rate of interest of less than 6 per cent per annum in case of non-payment of moneys assessed for county purposes and may also provide for payment of a discount at such rate per annum as the by-law may set forth for payment of moneys or any portion thereof assessed for county purposes if paid prior to the 20th day of December in the year in which the moneys are payable. R.S.O. 1950, c. 24, s. 222.

Reduced penalty rate and allowance of discount for prepayment

231. If default is made in such payment, the county treasurer may retain or stop a like amount out of any money that would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or, where the same has been in arrear for three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount due with interest and costs from the municipality in default. R.S.O. 1950, c. 24, s. 223.

Mode of enforcing such payments

How sheriff
to make
levy

R.S.O. 1960,
c. 126

232. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs, in the same manner as is provided by *The Execution Act* in the case of executions against municipal corporations. R.S.O. 1950, c. 24, s. 224.

Treasurer,
etc., to
account for
and pay
over Crown
money

233. The county, city or town treasurer is accountable and responsible to the Crown for all money collected for any of the purposes mentioned in section 227, and shall pay over such money to the Treasurer of Ontario. R.S.O. 1950, c. 24, s. 225.

Municipality
responsible
for such
money

234. Every county, city and town is responsible to Her Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the county, city or town in virtue of his office shall be duly paid over and accounted for by him according to law. R.S.O. 1950, c. 24, s. 226.

Treasurer,
etc., re-
sponsible to
county, etc.

235. The treasurer and his sureties are responsible and accountable for such money to the county, city or town, and any bond or security given by them for the duly accounting for and paying over money belonging to the county, city or town applies to all money mentioned in section 227 and may be enforced against the treasurer or his sureties in case of default. R.S.O. 1950, c. 24, s. 227.

Bonds to
apply to
school
money

236. The bond of the treasurer and his sureties applies to school money and to all public money of Ontario and, in case of default, Her Majesty may enforce the responsibility of the county, city or town by stopping a like amount out of any public money that would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. R.S.O. 1950, c. 24, s. 228.

City, etc.,
responsible
for default
of treasurer,
etc.

237. Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received to his use. R.S.O. 1950, c. 24, s. 229.

MISCELLANEOUS

Oaths and
affidavits

238. Any affidavit or oath required by this Act to be made may be made before any assessor or any justice of the peace having jurisdiction in the municipality or any commissioner for taking affidavits or any notary public for the Province. R.S.O. 1950, c. 24, s. 230.

Preparation
of rolls, etc.,
in ink

239. Where assessment rolls, assessment notices, collector's rolls and tax notices are not prepared by mechanical methods, they shall be written in ink and any corrections, alterations or

amendments of such rolls or notices shall be written in ink and initialled by the person making the change with the date of the change clearly shown. 1951, c. 4, s. 12.

240. Every person who wilfully tears down, injures or defaces any advertisement, notice or other document, that is required by this Act to be posted up in a public place for the information of persons interested, is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 24, ss. 231, 232.

Offence for
tearing
down
notices, etc.

241. When not otherwise provided, all penalties recovered under this Act shall be paid to the treasurer to the use of the municipality. R.S.O. 1950, c. 24, s. 233.

Application
of penalties

242. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention is liable to every person who is thereby injured for the damages sustained by such person by reason of such contravention. R.S.O. 1950, c. 24, s. 234.

Right of
action for
damages
against
officer

243. This Act does not affect the terms of any agreement made with a municipal corporation, or any by-law heretofore or hereafter passed by a municipal council under any other Act for fixing the assessment of any property, or for commuting or otherwise relating to municipal taxation, but whenever in any Act of the Legislature or by any Proclamation of the Lieutenant Governor in Council or by any valid by-law of a municipality heretofore passed or by any valid agreement heretofore entered into the assessment of the real and personal property of any person in a municipality is fixed at a certain amount for a period of years, unexpired at the time of the coming into force of this Act, or the taxes payable annually by any person in respect to the real and personal property are fixed at a stated amount during any such period, or the real and personal property of any person or any part thereof is exempt from municipal taxation in whole or in part for any such period, such fixed assessment or commutation of taxes or exemption shall be deemed to include any business assessment or other assessment and any taxes thereon in respect to the property or business mentioned in such Act, Proclamation, by-law or agreement to which such person or the property of such person would otherwise be liable under this Act. R.S.O. 1950, c. 24, s. 235.

By-laws and
agreements
fixing
assessments
or granting
exemption
from
taxation
not affected

244.—(1) Where the treasurer ascertains that certain taxes are uncollectable, he shall recommend to the court of revision that such outstanding taxes be struck off the roll

Uncollect-
able taxes

and the council, upon the recommendation of the court, may direct the treasurer to strike such taxes off the roll. 1958, c. 4, s. 15.

Taxes uncollectable by reason of court decision

(2) Notwithstanding subsection 1, the treasurer may strike from the roll taxes that by reason of a decision under section 131 or of a decision of a judge of any court are uncollectable. 1955, c. 4, s. 33, *part*; 1956, c. 3, s. 20.

Payment in lieu of taxes by Government of Canada

245.—(1) Where the Government of Canada desires to relieve a tenant or user of any land owned by Her Majesty in right of Canada, or in which Her Majesty has an interest, from his personal liability to pay taxes assessed against him, or to provide payment for specific municipal services rendered to such a tenant or user or to Her Majesty, a municipality may agree to accept and may accept from the Government of Canada an amount of money in lieu of taxes on such tenant or user or payment for such specific municipal services that would otherwise be payable. 1957, c. 2, s. 19, *part*.

Municipal services

(2) The specific municipal services referred to in subsection 1 do not include the provision of any right to attend elementary or secondary schools. 1960, c. 3, s. 12.

Taxes not to be levied

(3) Where a municipality has agreed to accept and has accepted such payment, as provided for in subsection 1, the municipality shall not collect any taxes on or in respect of any person who uses land with respect to which such payment is made.

Distribution of money

(4) Where moneys are received by a municipality under subsection 1 to relieve a tenant or user of any land owned by Her Majesty in right of Canada, or in which Her Majesty has an interest, from his personal liability to pay taxes assessed against him, the amount thereof which, if the taxes had been levied in the usual way, would have been paid to any body for which the council is required by law to levy rates or raise money shall be paid over to such body.

Idem

(5) The money received by a municipality under subsection 1 other than the money paid over to other bodies under subsection 4 shall be credited to the general fund of the municipality. 1957, c. 2, s. 19, *part*.

Computation of time for proceedings where time limited expires on Saturday

246. Where the municipal offices in a municipality are closed on Saturday and the time limited for any proceeding or for the doing of any thing in such municipal offices under this Act expires or falls upon a Saturday, the time so limited shall extend to and the thing may be done on the day next following that is not a holiday. 1956, c. 3, s. 21.

FORM 1

(Section 17)

THE.....OF.....
(Name of Municipality)

NOTICE TO OWNER FOR RETURN OF ASSESSMENT INFORMATION
TENANT

Real Property to which this Notice relates

Roll No..... (19...) Ward..... Poll. Sub. No..... School Section
or Area No.....

Name of Owner last assessed.....

Name of Tenant last assessed.....

Lot or part of Lot No. Concession No. Reputed Acreage.....Ac.

Street and Street No..... on Side of Street
(Number) (Name of Street)

Subdivision Lot or part of Lot No. Block..... Registered Plan No.....
(Assessor to fill in whichever description most readily identifies the property)

To..... P.O. Address.....

We understand you are the present owner or part owner of the above described
tenant property that during the current year we have already visited on two or more occasions
in the course of our duties, namely, on

.....
(The Assessor must enter date of each visit on above line)
to enable us to make an accurate assessment of both persons and property for entry
on the assessment roll now being made. On none of these occasions were we able to
obtain information we must enter on the roll or on the census register and we are
compelled, therefore, to seek the missing information from you so that the proper
assessment and record of persons and property may be made. Herewith we send you
the undermentioned forms of questionnaire that pursuant to *The Assessment Act*
you are required to complete and have filed with the undersigned within *ten* days after
the date of delivery or mailing of this notice. We trust you will give prompt attention
to this matter and thereby avoid subjecting yourself to the penalty for non-compliance
that the statute imposes.

Forms of Questionnaire herewith:

(The assessor to enter above the particular form or forms being sent by showing the reference
letter that identifies it, namely, A, B, C, D, E, F or G, as the case may be.)

Dated this.....day of.....19...
(Assessor or Assessment Commissioner)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE A

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....
Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF REAL PROPERTY TO BE FURNISHED BY

OWNER

TENANT

1. Interior of Building:

- (a) Number of rooms.....
- (b) Type of heating system.....
- (c) Plumbing installation—Kinds and number of fixtures.....
-

2. Land Acreage (farm property only):

- (a) Cleared.....ac. (b) Woodland.....ac. (c) Slashland.....ac.
- (d) Swamp, Marsh or Waste.....ac. (e) Total.....ac.

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19....
(Signature of Owner or Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE B

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF OWNERSHIP TO BE FURNISHED BY OWNER

1. Name in full of each Owner	Female Owner M., W., or S.	Year of Birth	Address	Occupation	British Subject (B. S.) or Alien (A.)	Religion	Public or Separate School Support (P.S.) (S.S.)	Where Spouse (if any) is not an Owner	
								Given or Christian Name	Year of Birth

2. PARTICULARS OF OCCUPANCY BY OTHER THAN OWNER—
TO BE FURNISHED BY OWNER

- (a) If the property is occupied by any person other than an owner:
- (i) state name of such occupant.....
- (ii) state nature of his occupancy.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Owner)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE C

Roll No. (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF GROSS RENTALS TO BE FURNISHED BY OWNER

1.	Gross Rentals	Preceding Year 19.... Actual	Current Year 19.... Estimated
		\$	\$
(a)	Total amount received and to be received for the whole year	.....	.....
(b)	Total not received or receivable for the year by reason of:		
	(i) vacancies.....	.....	.....
	(ii) occupancy by persons not obliged to pay rent or full rental.....	.....	.....
	(iii) other causes as below stated.....	.....	.....
	Total.....	.....	.....

2. Do rent control regulations apply with respect to the whole or any part of the property? If so, state particulars:
-
-

3.	Deductions from Gross Rentals for services supplied by owner	Preceding Year 19.... Actual	Current Year 19.... Estimated
	(State nature and amount of each item separately)	\$	\$
(a)	.....	.....	.....
(b)	.....	.....	.....
(c)	.....	.....	.....
	Total.....	.....	.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Owner)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE D

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF TENANCY TO BE FURNISHED BY TENANT

[illegible]

2. Give name and P.O. Address hereunder of the owner or, if the owner's name is not known, give the name and P.O. Address of his agent or other person to whom the tenant pays rent.

.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19....
(Signature of Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE E

Roll No. (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF GROSS RENTALS PAYABLE TO BE FURNISHED BY TENANT

1.	Gross Rentals	Preceding Year 19.... Actual	Current Year 19.... Estimated
		\$	\$
(a)	Total rent paid and yet to be paid for the whole year.....		
(b)	Total amount paid and yet to be paid (in addition to rent) with respect to the property for:		
	(i) services furnished by the owner.....		
	(ii) garage or car storage or parking space.....		
	(iii) other purposes as itemized below—		
		
		
		
	Total.....		

2. Do rent control regulations apply with respect to the whole or any part of the property? If so, state particulars.....

.....
.....

3.	Deduction from gross rentals payable that the owner is obliged to allow to the tenant. State nature and amount of each item separately.	Preceding Year 19.... Actual	Current Year 19.... Estimated
	(i)		
	(ii)		
	Total.....		

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19....
(Signature of Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE F

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF CENSUS FOR CURRENT YEAR TO BE FURNISHED BY OWNER
TENANT

1. Name in full of each person residing on the property, including occupant's family, relatives, boarders, roomers, employees, etc.	Occupation	Year of Birth	British Subject (B. S.) or Alien (A.)

2. Number of dogs kept on the property:
(a) Male or spayed female..... (b) Female not spayed.....
Total.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Owner or Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE G

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF BUSINESS ASSESSMENT TO BE FURNISHED BY OCCUPANT

1. State name of occupant or occupants carrying on business on the premises.....

.....
.....
.....

2. State kind or nature of businesses carried on by occupant or occupants.....

.....
.....
.....

3. What amount of floor area does each kind or nature of business occupy?.....

.....
.....
.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19....

(Signature of Occupant)

P.O. Address.....

R.S.O. 1950, c. 24, Form 1.

FORM 2

(Section 48)

THE.....OF.....
(Name of Municipality)

NOTICE OF ASSESSMENT MADE IN 19.....

FOR TAXATION IN 19.....

Roll No..... Ward..... Poll. Sub. No.....
School Section or Area No.....

THIS NOTICE WAS
DELIVERED OR
MAILED ON THE

.....DAY

OF

19.....

Take notice that you are assessed for taxation as herein specified. If you deem yourself improperly assessed in any respect you or your agent may within.....days after the.....day of.....19.....
(Insert date on which Roll is to be returned)

notify the Assessment Commissioner or, if none, the clerk of the municipality in writing of your complaint and it will be tried by the Court of Revision.

Note: See section 88 of *The Assessment Act* as to the times limited for bringing an action in any court with respect to assessments.

..... P. O. Address.....
Assessor (or Assessment Commissioner)

DESCRIPTION OF PROPERTY ASSESSED

[illegible]

PARTICULARS OF AMOUNT OF ASSESSMENT

[illegible]

PARTICULARS OF PERSONS ASSESSED

Names of Owners and Tenants	Owner (O.) Tenant (T.) Legislative Franchise (L.F.)	British Subject (B.S.) or Alien (A.)	Public School (P.S.) Separate School (S.S.) Support	Occupation	YOU ARE ASSESSED AS A PUBLIC SCHOOL SEPARATE SCHOOL SUPPORTER IN RESPECT OF THE ABOVE DESCRIBED PROPERTY

Where property is occupied by a tenant, taxation for school purposes is determined accordingly as the tenant is assessed for school support.

Detach at perforation, if you are appealing your assessment. Retain the top portion and use lower portion for notice of appeal.

NOTICE OF APPEAL FROM ASSESSMENT Roll No.....(19...)

THE.....OF.....
(Name of Municipality)

To the Assessment Commissioner or, if none, the clerk of the municipality:
Take notice that I hereby appeal from the assessment made under the above-mentioned Roll Number for the following reasons:—

.....
.....
.....

Dated..... 19.... (Signature of Appellant or his Agent)

P.O. Address.....

FORM 3

(Section 59)

AFFIDAVIT OR AFFIRMATION OF ASSESSOR IN VERIFICATION OF
ASSESSMENT ROLL

I, (*name and residence*), make oath and say (*or solemnly declare and affirm*) as follows:

1. I have, according to the best of my information and belief, set down or caused to be set down in the assessment roll attached hereto all the real property liable to taxation situate in the municipality (*or ward*) of (*as the case may be*); and I have justly and truly assessed or caused to be assessed in accordance with *The Assessment Act* each of the parcels of real property so set down and, according to the best of my information and belief, I have entered or caused to be entered the names of all owners or tenants assessable in respect of each such parcel.

2. I have estimated and set down or caused to be estimated and set down in the assessment roll, according to the best of my information and belief, the amounts assessable against every person named in the roll for business or otherwise under such Act.

3. According to the best of my knowledge and belief, I have entered or caused to be entered therein the name of every person entitled to be so entered under *The Assessment Act* or any other Act; and I have not intentionally omitted or caused to be omitted from the roll the name of any person whom I knew or had good reason to believe to be entitled to be entered therein under any of such Acts.

4. I have entered or caused to be entered on the roll the date of delivery or transmission of the notice required by section 48 of *The Assessment Act*, and every such date is truly and correctly stated in the roll.

5. I have not entered or caused to be entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and the amount for which each such person is assessed in the roll truly and correctly appears in the notice delivered or transmitted to him as aforesaid.

6. I have not entered or caused to be entered any name in the roll or improperly placed or caused to be placed any letter or letters in column 5 opposite any name with intent to give to any person not entitled to vote a right of voting; and I have not intentionally omitted or caused to be omitted from the roll the name of any person whom I believe to be entitled to be placed therein; and I have not, in order to deprive any person of the right of voting, omitted or caused to be omitted from column 5 opposite the name of such person any letter or letters that I ought to have placed there.

7. I have, according to the best of my information and belief, complied with or caused to be complied with all the provisions of *The Assessment Act* with regard to the preparation of the assessment roll.

Sworn (*or solemnly declared and affirmed*)
before me at the.....of
.....in the County of
....., this.....day of
....., A.D. 19....

FORM OF OATH TO BE ATTACHED TO ASSESSMENT ROLL

Where assistant of an Assessment Commissioner enters date of delivery or transmission
of notices under section 48

I, (*name of assistant and residence*), make oath and say (*or solemnly declare and affirm*) as follows:

I have entered in the assessment roll attached hereto the date of delivery or transmission of the notice required by section 48 of *The Assessment Act*, and every such date has been truly stated in the roll.

FORM 4

(Section 72, Subsection 4)

FORM OF AFFIDAVIT AS TO TEMPORARY ABSENCE

I,....., make oath and say as follows:

A.B. is a British subject by birth (or naturalization) and is not a citizen or a subject of any foreign country and has resided in Canada for the nine months next preceding the.....day of.....in the present year (the day to be filled in here is the date on which by statute or by-law the Assessor is to begin making his roll).

He (or she) was at the said date in good faith a resident of and domiciled in (giving name of municipality for which the Assessor is making his roll), and has resided therein continuously from the said date, and he now resides therein at (here give the residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated, if in a town or village. If the residence is in a township, give the concession wherein, and the lot or part of lot whereon it is situated).

And he (or she) has not been absent from Ontario during the said nine months except occasionally or temporarily or as a member of a permanent militia corps enlisted for continuous service or on service as a member of the active militia, or as a student in attendance at an institution of learning in Canada, that is to say (here name institution), as the case may be.

He (or she) is of the full age of 21 years, and is not disqualified under *The Election Act* or otherwise by law prohibited from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at.....in the County of.....
this.....day of....., 19.....

.....
(Signature of Voter)

.....
(Signature of J.P., or Commissioner, etc.)

(The oath may be taken before any Assessor or any Justice of the Peace, Commissioner for taking Affidavits, or Notary Public.)

FORM 5

(Section 128, Subsection 3)

FORM OF OATH TO BE ATTACHED TO COLLECTOR'S ROLL.

I (name and residence), make oath and say (or solemnly declare and affirm) as follows:—

I have appended my initials in the collector's roll attached hereto to every date entered by me in the roll as the date of demand of payment, or notice of taxes, pursuant to section 115 (or section 120) and of every transmission of statement and demand of taxes pursuant to section 117 of *The Assessment Act*, and every such date has been truly stated in the roll.

R.S.O. 1950, c. 24, Form 6.

FORM 6.

(Section 146, Subsection 2)

CERTIFICATE OF TREASURER

Treasurer's Office of the County (or City or Town or Township) of.....

Statement showing arrears of taxes upon the following lands in the Township, or City, or Town of.....

Lot	Concession or Street	Quantity of Land	Amount	Year

I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the lands has been sold for taxes and no certificate of tax arrears has been registered against the lands within the last eighteen months, and that the return under section 134 of *The Assessment Act* has been made for the year 19. . . .

Treasurer.

R.S.O. 1950, c. 24, Form 7; 1957, c. 2, s. 20.

FORM 7

(Section 185)

TAX DEED

To all to whom these presents shall come:

We,, of the..... of....., Esquire,
Warden (*or Mayor, or Reeve*), and..... of the..... of.....,
Esquire, Treasurer of the County (*or City or Town or Township*) of.....,
Send Greeting:

WHEREAS by virtue of a warrant under the hand of the Warden (*or Mayor or Reeve*) and seal of the said County (*or City or Town or Township*), bearing date the day of....., in the year of our Lord one thousand nine hundred and....., commanding the Treasurer of the County (*or City or Town or Township*) to levy upon the land hereinafter mentioned for the arrears of taxes due thereon, with his costs, the Treasurer of the County (*or City or Town or Township*) did, on the..... day of....., 19....., sell by public auction to..... of the..... of....., in the County of....., that certain parcel or tract of land and premises hereinafter mentioned, at and for the price or sum of of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon up to the..... day of....., in the year of our Lord one thousand nine hundred and....., together with the costs:

Now know ye, that we,..... and..... as Warden (*or Mayor or Reeve*) and Treasurer of the said County (*or City or Town or Township*) in pursuance of such sale, and of *The Assessment Act*, and for the consideration aforesaid, do hereby grant, bargain and sell unto....., his heirs and assigns, all that certain parcel or tract of land and premises containing being composed of (*describe the land so that it may be readily identified*).

In witness whereof, we the Warden (*or Mayor or Reeve*) and Treasurer of the County (*or City or Town or Township*) have hereunto set our hands and affixed the seal of the County (*or City or Town or Township*), this..... day of in the year of our Lord one thousand nine hundred and; and the Clerk of the County (*or City or Town or Township*) Council has countersigned.

A.B., Warden (*or Mayor or Reeve*), (*Corporate Seal*)

C.D., Treasurer.

Countersigned,
E. F., Clerk.

R.S.O. 1950, c. 24, Form 8.

FORM 8

(Section 11, Subsection 2)

(Address).....

THE ASSESSMENT COMMISSIONER OR CLERK

OF THE TOWNSHIP OF.....

Dear Sir or Madam:

Please take notice that the statement of plant of the (*Name of Company*).....
.....in the Township of.....
for the year ending December 31st, 19...., is:

ASSESSABLE PLANT		NON-ASSESSABLE PLANT	
TOTAL MILES of poles and one wire or circuit, including half on boundaries of adjoining townships	TOTAL MILES of additional wires or additional circuits on same poles, including half on boundaries of adjoining townships	TOTAL MILES of one exempt wire or circuit, including half on boundaries of adjoining townships	TOTAL MILES of additional exempt wires or circuits, including half on boundaries of adjoining townships

SIGNED ON BEHALF OF THE COMPANY BY.....
(*Signing Officer*)

CHAPTER 24

The Assignment of Book Debts Act

1. In this Act, unless the context otherwise requires, Interpre-
tation
- (*a*) “assignee” means a person to whom an assignment of book debts is made;
 - (*b*) “assignment” includes every legal and equitable assignment, whether absolute or by way of security, and every mortgage or other charge upon book debts;
 - (*c*) “assignor” means a person making an assignment of book debts;
 - (*d*) “book debts” means all such accounts and debts whether existing or future as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
 - (*e*) “creditors” means the creditors of the assignor, whether execution creditors or not, who become creditors before the registration of an assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the *Bankruptcy Act* (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed; R.S.C. 1952,
cc. 14, 296
 - (*f*) “proper officer” means the officer in whose office assignments are required to be registered in any registration district;
 - (*g*) “registered” means filed in accordance with this Act;
 - (*h*) “registration district” means a district established under this Act for the registration of assignments;

- (i) "subsequent purchasers" includes a person who in good faith for valuable consideration and without notice obtains by assignment an interest in book debts that have already been assigned;
- (j) "valuable consideration" includes,
 - (i) any consideration sufficient to support a simple contract,
 - (ii) an antecedent debt or liability. R.S.O. 1950, c. 25, s. 1.

Application
of Act

2. This Act does not apply to,

- (a) an assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,
 - (i) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation, or
 - (ii) in any bonds, debentures, or debenture stock of the corporation as well as in the trust deed of other instrument securing the same, or in a trust deed or other instrument securing bonds, debentures or debenture stock of any other corporation, or
 - (iii) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument;
- (b) an assignment of book debts due at the date of the assignment from specified debtors;
- (c) an assignment of debts growing due under specified contracts;
- (d) an assignment of book debts included in a transfer of a business made *bona fide* and for value;
- (e) an assignment of book debts included in an authorized assignment under the *Bankruptcy Act* (Canada). R.S.O. 1950, c. 25, s. 2.

3.—(1) Except as provided in this Act, every assignment of book debts made by a person engaged in a trade or business in Ontario is absolutely void as against the creditors of the assignor and as against the subsequent purchasers unless the assignment is, <sup>Require-
ments as to
assignment</sup>

- (a) in writing;
- (b) accompanied by an affidavit of an attesting witness or affidavits of attesting witnesses, of the execution thereof by the assignor, or by the assignors respectively, identifying the assignment and stating the date of execution by the assignor, or the respective dates of execution by the assignors, as the case may be, and a further affidavit of the assignee or one of the several assignees, his or their agent, stating that the assignment was executed in good faith and for valuable consideration and not for the purpose of protecting the book debts therein mentioned against the creditors of the assignor or for the purpose of preventing such creditors from recovering any claims that they have against the assignor; and
- (c) registered, as hereinafter provided, together with the affidavits within thirty days of the execution of the assignment.

(2) If there are two or more assignors, the date of execution of the assignment shall be deemed to be the date of the <sup>Two or
more
assignors</sup> execution by the assignor who last executes it.

(3) Every assignment that is required to be in writing and to be registered under this Act, as against creditors and subsequent purchasers, takes effect only from the time of the registration of the assignment. <sup>To have
effect from
registration</sup> R.S.O. 1950, c. 25, s. 3.

4.—(1) Registration of an assignment under this Act shall be effected by filing the assignment together with such affidavits as are by this Act required, within thirty days from its execution, in the office of the proper officer of a registration district determined in accordance with the following rules: <sup>How regis-
tration to
be effected</sup>

1. Where the assignor is a corporation incorporated under the laws of Ontario, in the registration district in which the head office or registered office is situate.
2. Where the assignor is an extra-provincial corporation having a head office or registered office in Ontario,

in the registration district in which such head office or registered office is situate.

3. Where the assignor is an extra-provincial corporation not having a head office or registered office in Ontario, in the office of the clerk of the county court of the County of York at Toronto.
4. Where the assignor is not a corporation in the registration district in which the assignor carries on business at the time of the execution of the assignment.
5. Where the assignor is not a corporation, and at the time of the execution of the assignment carries on business in different registration districts, in any such registration district, and by filing a duplicate original of the assignment and affidavits, or a copy thereof, certified by the proper office of that registration district, in each of the other registration districts.

Assignments
to be
numbered

(2) The proper officer shall cause every assignment filed in his office to be numbered, to be endorsed with a memorandum of the day, hour and minute of filing, and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the assignment with their descriptions and the dates of execution and registration of the assignment.

Where
registration
expires on
Sunday

(3) Where the time for registration of an assignment or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration, so far as regards the time of registration, is valid if made on the next following day on which the office is open. R.S.O. 1950, c. 25, s. 4.

Discharge
of
assignment

5.—(1) An assignment registered under this Act may be discharged in whole or in part by the registration in the office in which it is registered of a certificate of discharge, signed by the assignee, his executors, administrators or assigns, and accompanied by an affidavit of an attesting witness of the execution thereof.

Noting
discharge

(2) The proper officer in whose office a certificate of discharge accompanied by the affidavit of execution is registered shall note the fact of such discharge against each entry in the books of his office respecting the registration of the assignment, and shall make a like notation upon the assignment or copy registered in his office.

(3) If there are two or more assignors residing in different registration districts affected by the discharge, the registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of the registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer of that registration district in the office of the proper officer of each of the other registration districts, and each proper officer shall make the like notations of the discharge in the records of his office as are provided by subsection 2.

Noting
discharge
in two or
more
registration
districts

(4) The proper officer in whose office the certificate of discharge is registered shall on request furnish a certificate of the entry of the discharge in the records of his office. R.S.O. 1950, c. 25, s. 5.

Certificate
of entry of
discharge

6. Upon payment of the prescribed fee, every person has access to and is entitled to inspect the books of any proper officer containing records or entries of assignments or documents registered or filed under this Act, and no person shall be required, as a condition of his right thereto, to disclose the name of the person in respect of whom such access or inspection is sought, and every proper officer shall, upon request accompanied by payment of the prescribed fee, produce for inspection any assignment or document so registered or filed in his office. R.S.O. 1950, c. 25, s. 6.

Inspection
of records

7. For the purpose of registration of assignments or other documents, each county and provisional judicial district in Ontario is a registration district and the clerk of the county or district court is the proper officer for the registration of assignments or documents in that registration district. R.S.O. 1950, c. 25, s. 7.

Registration
districts and
offices

8.—(1) Affidavits required by this Act may be taken and made before the proper officer of any registration district or before any person, whether in or outside Ontario, authorized to take affidavits in or concerning any cause, matter or thing pending in any court in Ontario.

Taking
affidavits

(2) No registered assignment or other document shall be held to be defective or void solely on the ground that any affidavit required by this Act was taken and made before a solicitor for any of the parties to the assignment or other document, or before a partner of such solicitor, or before a clerk in the office of such solicitor. R.S.O. 1950, c. 25, s. 8.

Registration
not affected
by interest
of solicitor

Affidavit
in case of
death of
assignee

9. Any affidavit required by this Act to be made by an assignee may, in the event of his death, be made by his executor or administrator or by any of his next of kin or by the duly authorized agent of the executor or administrator. R.S.O. 1950, c. 25, s. 9.

Affidavit
on behalf of
corporation

10. Where the assignee is a corporation, every affidavit required or permitted by this Act to be made or given by the corporation as such assignee may be made or given by any officer, employee or agent of the corporation. R.S.O. 1950, c. 25, s. 10.

Affidavit of
agent or
officer

11. Any affidavit made for the purposes of this Act by the agent of an assignee, or of an executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the assignment, and that he has personal knowledge of the facts deposed to. R.S.O. 1950, c. 25, s. 11.

No affidavit
of execution
by
corporation

12. Where an assignment or certificate of discharge or other document has been executed by a corporation under this Act, no affidavit of an attesting witness is required. R.S.O. 1950, c. 25, s. 12.

Power of
judge to
permit proof
of execution
otherwise
than by
affidavit of
witness

13. In case, before the making of an affidavit of execution required by this Act, the attesting witness to an assignment, certificate of discharge or other document dies or leaves Ontario, or becomes incapable of making, or refuses to make, the affidavit, the judge of the county or district court may make an order permitting the registration of the assignment, certificate of discharge or other document, upon such proof of its due execution and attestation as the judge, by the order, requires and allows, and the order, or a copy thereof, shall be annexed to the assignment, certificate of discharge, or other document, as the case may be, and filed therewith, and the registration of the assignment, certificate of discharge, or other document under and in compliance with the terms of the order, has the like effect as the registration thereof with the affidavit of execution otherwise required by this Act. R.S.O. 1950, c. 25, s. 13.

Rectification
of
omissions
and mis-
statements

14. Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, the judge of the county or district court on being satisfied that the omission to register an assignment within the time prescribed by this Act, or any omission or misstatement in a document filed under this Act, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion extend the time for registration,

or order the omission or misstatement to be rectified, on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing as the judge thinks fit to direct, and the order, or a copy thereof, made under this section shall be annexed to the assignment or copy thereof on file or tendered for registration and appropriate entries shall be made in the register. R.S.O. 1950, c. 25, s. 14; 1951, c. 83, s. 2.

15. No defect or irregularity in the execution or attestation of an assignment or other document, and no defect, irregularity or omission in an affidavit accompanying an assignment or filed in connection with its registration, and no error of a clerical nature or in an immaterial or non-essential part of an assignment, invalidates or destroys the effect of the assignment or the registration thereof, unless in the opinion of the court or judge before whom a question relating thereto is tried such defect, irregularity, omission or error has actually misled a person whose interests are affected by the assignment. R.S.O. 1950, c. 25, s. 15.

16. Copies of an assignment, certificate of discharge or other document registered or filed under this Act certified by the proper officer shall be received as *prima facie* evidence for all purposes as if the original assignment or document were produced and also as *prima facie* evidence of the execution of the original assignment or document according to the purport of such copy, and the certificate of the proper officer shall also be received as *prima facie* evidence of the date and hour of registration and filing. R.S.O. 1950, c. 25, s. 16.

17. For services under this Act each proper officer is entitled to receive the following fees:

- | | |
|--|--------|
| 1. For filing and registering an assignment or a certificate of discharge..... | \$1.00 |
| 2. For a search..... | .50 |
| 3. For a certificate of registration of an instrument..... | .50 |
| 4. For copies of a document and certifying it, for every 100 words..... | .20 |
| 5. For production and inspection of an instrument or document | .10 |

1953, c. 7, s. 1.

18. This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the Provinces that enact it. R.S.O. 1950, c. 25, s. 18.

19. This Act does not apply to an instrument registered under *The Corporations Securities Registration Act*. R.S.O. 1960, c. 70, not affected
1950, c. 25, s. 19.

CHAPTER 25

The Assignments and Preferences Act

1. In this Act, “judge” means a judge of the county or district court of the county or district in which the assignment is required to be registered. Interpretation R.S.O. 1950, c. 26, s. 1.

2. Where a judge is disqualified to act in a matter arising under this Act, a judge of the county or district court of an adjoining county or district has jurisdiction to act in his place. Where judge disqualified R.S.O. 1950, c. 26, s. 2.

3. Every confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment given by a person, being at the time in insolvent circumstances or unable to pay his debts in full or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor with intent thereby to defeat, hinder, delay or prejudice his creditors wholly or in part, or to give one or more of his creditors a preference over his other creditors or over any one or more of them, is void as against the creditors of the person giving the same and is ineffectual to support any judgment or execution. Nullity of certain confessions of judgment, etc. R.S.O. 1950, c. 26, s. 3.

4.—(1) Subject to section 5, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances or is unable to pay his debts in full, or knows that he is on the eve of insolvency, with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, is void as against the creditor or creditors injured, delayed or prejudiced. Nullity of gifts, transfers, etc., made with intent to defeat or prejudice creditors

(2) Subject to section 5, every such gift, conveyance, assignment or transfer, delivery over or payment made by a person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, to or for a creditor with the intent to give such creditor an unjust preference over his other creditors or over any one or more of them is void as against the creditor or creditors injured, delayed, prejudiced or postponed. Unjust preferences

When there is presumption of intention if transaction has effect of unjust preference

(3) Subject to section 5, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, in and with respect to any action or proceeding that, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning of this Act whether it be made voluntarily or under pressure.

Idem

(4) Subject to section 5, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning of this Act whether it be made voluntarily or under pressure.

"Creditor" for certain purposes to include surety and endorser

(5) The word "creditor" in the fifth and sixth lines of subsection 2, in the second line of subsection 3, and in the second line of subsection 4, includes any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given, become a creditor of the person giving the preference within the meaning of these subsections. R.S.O. 1950, c. 26, s. 4.

Assignments for benefit of creditors and *bona fide* sales, etc., protected

5.—(1) Nothing in section 4 applies to an assignment made to the sheriff of the county or district in which the debtor resides or carries on business or, with the consent of a majority of his creditors having claims of \$100 and upwards computed according to section 24, to another assignee resident in Ontario, for the purpose of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts, nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to an innocent purchaser or person, nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods or property of any kind, that is made in consideration of a present actual *bona fide* payment in money, or by way of security for a present actual *bona fide* advance of money, or which is made in consideration of a present actual *bona fide* sale or delivery of goods or other property where the money paid or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

(2) In the case of a valid sale of goods or other property and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor under circumstances that would render void such a payment or transfer by the debtor personally and directly, the payment or transfer, even though valid as respects the purchaser, is void as respects the creditor to whom it is made.

Transfer to creditor of consideration for sale invalid

(3) Every assignment for the general benefit of creditors that is not void under section 4, but is not made to the sheriff nor to any other person with the prescribed consent of creditors, is void as against a subsequent assignment that is in conformity with this Act, and is subject in other respects to the provisions thereof until and unless a subsequent assignment is executed in accordance therewith.

Effect of assignment not in accordance with Act

(4) Where a payment has been made that is void under this Act and any valuable security was given up in consideration of the payment, the creditor is entitled to have the security restored or its value made good to him before, or as a condition of, the return of the payment.

Security given up upon void payment to be returned

(5) Nothing in this Act,

Exceptions:

- (a) affects *The Wages Act* or prevents a debtor providing for payment of wages due by him in accordance with that Act; wages R.S.O. 1960, c. 421
- (b) affects any payment of money to a creditor where the creditor, by reason or on account of the payment, has lost or been deprived of, or has in good faith given up, any valid security that he held for the payment of the debt so paid unless the security is restored or its value made good to the creditor; surrender of securities
- (c) applies to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors; or exchange of securities
- (d) invalidates a security given to a creditor for a pre-existing debt where, by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor in the *bona fide* belief that the advance will enable the debtor to continue his trade or business and to pay his debts in full. certain securities to be valid

R.S.O. 1950, c. 26, s. 5.

Residence
of assignee

6. No person, other than a permanent and *bona fide* resident of Ontario, shall be assignee under an assignment within this Act, nor shall any assignee delegate his duties as assignee to or appoint as deputy any person who is not a permanent and *bona fide* resident of Ontario, and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of Ontario. R.S.O. 1950, c. 26, s. 6.

Form of
assignment
for general
benefit of
creditors

7. Every assignment made under this Act for the general benefit of creditors, if the property is described in the words "all my personal property that may be seized and sold under execution and all my real estate, credits and effects", or in words to the like effect, vests in the assignee all the real and personal estate, rights, property, credits and effects, whether vested or contingent, belonging to the assignor at the time of the assignment, except such as are by law exempt from seizure or sale under execution, subject, however, as regards land, to *The Registry Act* and *The Land Titles Act*. R.S.O. 1950, c. 26, s. 7.

R.S.O. 1960,
cc. 348, 204

All assign-
ments for
general
benefit of
creditors to
be subject
to this Act

8. Every assignment for the general benefit of creditors, whether it is or is not expressed to be made under or in pursuance of this Act and whether the assignment does or does not include all the real and personal estate of the assignor, vests the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and the assignment and the property thereby assigned is subject to all the provisions of this Act, and the same applies to the assignee named in such assignment. R.S.O. 1950, c. 26, s. 8.

How claims
are to rank
where
different
estates

9. If an assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership or as a member of different partnerships, the claims rank first upon the estate by which the debts they represent were contracted and only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R.S.O. 1950, c. 26, s. 9.

Appoint-
ment of
substituted
assignee

10.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards may substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 5 applies, a person residing in the county or district in which the assignor resided or carried on business at the time of the assignment.

(2) An assignee may be removed and another substituted or an additional assignee appointed by the judge. Removal, substitution or addition

(3) Where an assignee dies, a new assignee may be appointed in the manner provided by subsection 2. Death of assignee

(4) Where a new or additional assignee is appointed, the estate vests in him or in him jointly with his co-assignee without a conveyance or transfer, and he shall register a verified copy of the resolution of the creditors or of the order appointing him in the office in which the assignment was registered. Effect on estate

(5) A verified copy of the resolution or of the order may be registered in the proper registry or land titles office and the registration thereof has the same effect as the registration of a conveyance. R.S.O. 1950, c. 26, s. 10. Registration

11.—(1) Except as otherwise provided in this section, the assignee has the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors or in violation of this Act. Rights of assignee

(2) Where a creditor desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the estate and the assignee under the authority of the creditors or inspectors refuses or neglects to take such proceeding after being required so to do, the creditor has the right to obtain an order of the judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee as the judge prescribes, and thereupon any benefit derived from the proceeding, to the extent of his claim and full costs, belongs exclusively to the creditor instituting the proceeding for his benefit, but, if before such order is obtained the assignee signifies to the judge his readiness to institute the proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the estate. R.S.O. 1950, c. 26, s. 11. Right of creditor in certain cases if assignee refuses

12.—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, that is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made has sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in an Following proceeds of property fraudulently transferred

action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover belongs not only to an assignee for the general benefit of the creditors of the debtor but, where there is no such assignment, to all creditors of the debtor.

Taking proceeds under execution

(2) Where there is no assignment for the benefit of creditors and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor and are subject to *The Creditors' Relief Act*.

R.S.O. 1960, c. 78

Creditor suing on behalf of himself and other creditors

(3) Where there is no assignment for the benefit of creditors and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as are necessary to render the proceeds available for the general benefit of the creditors.

Protection of innocent purchasers

(4) This section does not apply as against innocent purchasers of the property. R.S.O. 1950, c. 26, s. 12.

Assignments take precedence over attachments, etc.

13. An assignment for the general benefit of creditors under this Act takes precedence over attachments, garnishee orders, judgments, executions not completely executed by payment, and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands or to the lien, if any, for the costs of the creditor who has the first execution in the sheriff's hands. R.S.O. 1950, c. 26, s. 13.

Waiver of claims by Crown

14. Where the Crown has a claim in respect of estreated bail against the estate of a person who makes an assignment for the benefit of his creditors, the Lieutenant Governor in Council may waive any preference in respect of such claim that the Crown has against such estate by virtue of its prerogative right. R.S.O. 1950, c. 26, s. 14.

Amendment by judge

15. No advantage shall be obtained by any creditor by reason of any mistake, defect or imperfection in an assignment under this Act for the general benefit of creditors if the assignment can be amended or corrected, and any such mistake, defect or imperfection shall be amended by the judge on the application of the assignee or of any creditor of the assignor, and on such notice to other parties concerned as the judge thinks reasonable, and the amendment, when made, shall be

related back to the date of the assignment, but not so as to prejudice the rights of innocent purchasers. R.S.O. 1950, c. 26, s. 15.

16.—(1) A notice of the assignment shall, forthwith after the delivery thereof to him or his assent thereto, be published by the assignee at least once in *The Ontario Gazette* and not less than twice in a newspaper having a general circulation in the county or district in which the property assigned is situate.

Publishing
notice of
assignment

(2) The assignment or a copy thereof shall also, within five days from the execution thereof, be registered by the assignee, together with an affidavit of a witness thereto of the due execution of the assignment, in the office of the clerk of the county or district court of the county or district in which the assignor, if a resident in Ontario, resided at the time of the execution thereof, or if not a resident then in the office of the clerk of the county or district court of the county or district where the personal property so assigned or where the principal part thereof is at the time of the execution of the assignment, and the clerk shall number and enter the assignments and endorse thereon the time of receiving them, and they shall be open for the inspection of all persons desiring to inspect them.

Registering
assignment

(3) The clerk is entitled to the same fees for services as if the assignment had been registered under *The Bills of Sale and Chattel Mortgages Act*.

Fees of
clerk
R.S.O. 1960,
c. 34

(4) For the purposes of subsection 2, the Provisional County of Haliburton shall be deemed part of the County of Victoria. R.S.O. 1950, c. 26, s. 16.

Haliburton

17.—(1) If the notice is not published as provided by section 16 or if the assignment is not registered within five days from the delivery thereof to the assignee or his assent thereto, the assignee is liable to a penalty of \$10 for each day during which the default continues.

Penalty for
neglecting
publication
or
registration

(2) The burden of proving the time of such delivery or assent is upon the assignee.

Onus of
proof

(3) Where the assignment is made to a sheriff, he shall not incur the penalty unless he has been paid or tendered the cost of advertising and of registering the assignment, nor is he bound to act under the assignment until his costs in that behalf are paid or tendered to him. R.S.O. 1950, c. 26, s. 17.

Liability of
sheriff

Compelling
publication
and
registration

18. If the assignment is not registered or notice thereof is not published, the judge may, upon the application of any person interested in the assignment, by order enforce the registration of the assignment or the publication of the notice. R.S.O. 1950, c. 26, s. 18.

Omission
to publish,
etc.

19. The omission to publish or register as required by section 16 does not, nor does any irregularity in the publication of registration, invalidate the assignment. R.S.O. 1950, c. 26, s. 19.

Duty to
call meeting
of creditors

20.—(1) It is the duty of the assignee immediately to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and, within five days from the date of the assignment, to call a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate by sending by registered mail to every creditor known to him a notice calling the meeting to be held in his office or some other convenient place to be named in the notice not later than twelve days after the mailing thereof, and by advertisement in *The Ontario Gazette*.

Other
meetings

(2) All other meetings to be held shall be called in like manner. R.S.O. 1950, c. 26, s. 20.

Appointment
of inspectors

21.—(1) The creditors at any meeting may appoint one or more inspectors who shall superintend and direct the proceedings of the assignee in the management and winding up of the estate, and the creditors may also at any subsequent meeting for that purpose revoke the appointment of any inspector.

Appointment
of another
inspector

(2) Where the appointment of an inspector is revoked or where an inspector dies, resigns his office or leaves Ontario, the creditors at any meeting may appoint another inspector to take his place.

Inspector
not to
purchase
assets

(3) An inspector shall not directly or indirectly purchase any part of the stock in trade, debts or other assets of the assignor. R.S.O. 1950, c. 26, s. 21.

Meeting of
creditors by
request of
majority
thereof

22.—(1) In the case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to section 24, it is the duty of the assignee, within two days after receiving the request, to call a meeting of the creditors for a day not later than twelve days after he receives the request, and in case of default the

assignee shall incur a penalty of \$25 for every day after the expiration of the time limited for calling the meeting until it is called.

(2) In case a sufficient number of creditors do not attend ^{Power of judge} the meeting mentioned in section 20 or fail to give directions with reference to the disposal of the estate, the judge may give such directions as he deems necessary for that purpose. R.S.O. 1950, c. 26, s. 22.

23. At any meeting of creditors the creditors may vote in ^{Voting at meeting} person or by proxy authorized in writing, but no creditor whose vote is disputed is entitled to vote until he has filed with the assignee an affidavit in proof of his claim, stating the amount and nature thereof. R.S.O. 1950, c. 26, s. 23.

24.—(1) Subject to section 10, all questions at meetings ^{Scale of votes} of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

1. For every claim of or over \$100 and not exceeding \$200, one vote.
2. For every claim over \$200 and not exceeding \$500, two votes.
3. For every claim over \$500 and not exceeding \$1,000, three votes.
4. For every additional \$1,000 or fraction thereof, one vote.

(2) No person is entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this ^{Upon claims acquired after assignment} does not apply to persons acquiring notes, bills or other securities upon which they are liable.

(3) In the case of a tie, the assignee or, if there are two ^{Casting vote} assignees, the assignee nominated for that purpose by the creditors or by the judge, if none has been nominated by the creditors, has a casting vote.

(4) Every creditor in his proof of claim shall state whether ^{Valuing securities} he holds any security for his claim or any part thereof, and if such security is on the estate of the assignor or on the estate of a third person for whom the assignor is only secondarily liable, he shall put a specified value thereon and the assignee, under the authority of the creditors, may either

consent to the creditor ranking for the claim after deducting such valuation or he may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the assignee has realized the security, and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor is the amount for which he shall rank and vote in respect of the estate.

Right to
revalue in
certain cases

(5) If a creditor's claim is based upon a negotiable instrument upon which the assignor is only indirectly or secondarily liable and which is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof, but after the maturity of such liability and its non-payment he is entitled to amend his claim and revalue his security.

Where
creditor
holding
security
fails to
value it

(6) Where a person claiming to be entitled to rank on the estate holds security for his claim, or any part thereof, of such a nature that he is required by this Act to value the security and he fails to value it, the judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days notice shall be given to the claimant, may order that, unless a specified value be placed on the security and notified in writing to the assignee within a time to be limited by the order, the claimant is, in respect of the claim, or the part thereof for which the security is held in case the security is held for part only of the claim, wholly barred of any right to share in the proceeds of the estate.

Conse-
quences of
neglect of
order

(7) If a specified value is not placed on the security and notified in writing to the assignee according to the exigency of the order or within such further time as the judge by subsequent order allows, the claim, or the part, as the case may be, is wholly barred as against the estate, but without prejudice to the liability of the assignor therefor. R.S.O. 1950, c. 26, s. 24.

Proof of
claim

25.—(1) Every person claiming to be entitled to rank on the estate shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits.

(2) Where a person claiming to be entitled to rank on the estate does not, within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections, the judge upon summary application by the assignee or by any other person interested in the estate, of which application at least three days notice shall be given to the claimant, may order that unless the claim is proved to the satisfaction of the judge within a time to be limited by the order, the claimant shall no longer be deemed a creditor of the estate and is wholly barred of any right to share in the proceeds thereof.

Limiting
time for
proof of
claim

(3) If the claim is not so proved within the time so limited or within such further time as the judge by subsequent order allows, it is wholly barred and the assignee is at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the assignor therefor.

Conse-
quences of
neglect to
prove claim

(4) Subsections 2 and 3 do not interfere with the protection afforded to assignees by section 52 of *The Trustee Act*.

Not to in-
terfere with
R.S.O. 1960,
c. 408

(5) A person whose claim has not accrued due is nevertheless entitled to prove under the assignment and to vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time that has to run until the claim becomes due. R.S.O. 1950, c. 26, s. 25.

Creditor
may prove
claim not
due

26.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant.

Contesta-
tion of
claim

(2) Within thirty days after the receipt of the notice, or within such further time as the judge allows, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action, or of the summons in case the action is brought in a division court, shall be served on the assignee, and in default of such action being brought and writ or summons served within the time limited the claim to rank on the estate is forever barred.

Limitation

(3) The notice by the assignee shall contain the name and place of business of a solicitor upon whom service of the writ of summons may be made, and service upon him shall be deemed sufficient service.

Service on
solicitor of
assignee

Right of assignee to compel plaintiff to proceed with action against assignor

(4) Where prior to the assignment an action has been commenced against the assignor and is pending at the time of the assignment, the assignee may, by notice served upon the plaintiff in the action, require him to proceed, and he is bound to proceed in that action to establish his claim, instead of bringing an action against the assignee as provided for by subsection 2, and the plaintiff may thereupon apply to the court in which the action is brought for an order adding the assignee as a party defendant in the action, and the assignee may be so added upon such terms as to the costs that may be subsequently incurred as the court or a judge thereof, or the judge making the order, directs. R.S.O. 1950, c. 26, s. 26.

Procedure where assignee is satisfied but assignor desires to dispute

27.—(1) If the assignee is satisfied with the proof adduced in support of a claim but the assignor disputes it, the assignor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim, and the notice shall be given within ten days after the assignor is notified in writing by the assignee that he is satisfied with the proof adduced and not afterwards unless by leave of the judge.

Where assignee does not require action to be brought

(2) If upon receiving such notice of dispute the assignee does not deem it proper to require the claimant to bring an action to establish his claim, he shall notify the assignor in writing of the fact, and the assignor may thereupon, and within ten days of his receiving such notice, apply to the judge for an order requiring the assignee to serve a notice of contestation.

Conditions

(3) The order shall be made only if, after notice to the assignee, the judge is of opinion that there are good grounds for contesting the claim.

Where decision of assignee final

(4) If the assignor does not make such an application, the decision of the assignee is, as against him, final and conclusive.

Decision of judge on validity of claim

(5) If upon the application the claimant consents in writing, the judge may in a summary manner decide the question of the validity of the claim.

Intervention by assignor at trial

(6) If an action is brought by the claimant against the assignee, the assignor may intervene at the trial either personally or by counsel for the purpose of calling and examining or cross-questioning witnesses. R.S.O. 1950, c. 26, s. 27.

Retention of assets in Ontario and deposit of moneys

28.—(1) No property or assets of an estate assigned under this Act shall be removed out of Ontario without the order of the judge, and the proceeds of the sale of any such property

or assets and all moneys received on account of any estate shall be deposited by the assignee in a chartered bank in Ontario and shall not be withdrawn or removed without the order of the judge, except in payment of dividends and charges incidental to winding up the estate.

(2) An assignee or any person acting in his stead who ^{Penalty} contravenes this section is liable to a penalty of \$500.

(3) One-half of the penalty goes to the person suing there- ^{Application of penalty} for and the other half belongs to the estate.

(4) In default of payment of the penalty and all costs ^{Imprisonment in default of payment of penalty} incurred in an action or proceeding for the recovery thereof within the time limited by the judgment, the court in which the action is brought may order that such assignee or person may be imprisoned for any period not exceeding thirty days, and such assignee or person is disqualified from acting as assignee of any estate while the default continues. R.S.O. 1950, c. 26, s. 28.

29. Upon the expiration of one month from the first meet- ^{Accounts to be kept accessible} ing of creditors or as soon as may be thereafter and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as assignee and of the position of the estate. R.S.O. 1950, c. 26, s. 29.

30. The law of set-off applies to all claims made against ^{Set-off} the estate, and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off is affected by this or any other Act respecting frauds or fraudulent preferences. R.S.O. 1950, c. 26, s. 30.

31. As large a dividend as can be paid with safety shall ^{Dividends, when to be paid} be paid by every assignee within twelve months from the date of the assignment, and earlier if required by the inspectors, and thereafter a further dividend shall be paid every six months and more frequently if required by the inspectors, until the estate is wound up and disposed of. R.S.O. 1950, c. 26, s. 31.

32. As soon as a dividend sheet is prepared, notice thereof ^{Notice of dividend sheet} shall be given by registered mail to each creditor, enclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee for money in his hands,

together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor, and after the expiry of eight days from the date of mailing the notice, abstract and dividend sheet, dividends on all claims not objected to within that period shall be paid. R.S.O. 1950, c. 26, s. 32.

Distributing
moneys and
determining
claims
R.S.O. 1960,
c. 78

33.—(1) The assignee may take the proceedings authorized by section 32 of *The Creditors' Relief Act* to be taken by a sheriff, and in that case sections 32 and 33 of that Act apply *mutatis mutandis* to proceedings for the distribution of money and determination of claims arising under an assignment made under this Act, with the substitution of "assignee" for "sheriff", but this section does not relieve the assignee from mailing to each creditor the abstract and other information required by section 32 of this Act to be sent to creditors so far as the same is not contained in the list sent by him under section 32 of *The Creditors' Relief Act*.

To what
judge
application
to be made

(2) A judge of the county or district court of the county or district where the assignment is required to be registered is the judge to whom applications under this section shall be made. R.S.O. 1950, c. 26, s. 33.

Remunera-
tion of
assignee

34. The assignee shall receive such remuneration as is voted to him by the creditors at a meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case the creditors fail to provide therefor, subject to review by the judge upon complaint of the assignee or of any creditor. R.S.O. 1950, c. 26, s. 34.

Where re-
muneration
not fixed
before the
final
dividend

35. Where the remuneration of the assignee has not been fixed under section 34 before the final dividend, the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding 5 per cent of the cash receipts, subject to review by the judge, but no application by the assignee to review the allowance shall be entertained unless the question of his remuneration has been brought before a meeting of creditors competent to decide the same before the preparation of the final dividend sheet. R.S.O. 1950, c. 26, s. 35.

Remunera-
tion of
inspectors

36.—(1) An assignee shall not make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector except under the authority of a resolution of the creditors passed at a meeting regularly called fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting.

(2) An inspector shall not be allowed more than \$4 a day besides his actual travelling expenses. R.S.O. 1950, c. 26, s. 36. Limit of allowance

37.—(1) Upon a resolution passed by a majority vote of the creditors present or represented at a meeting of creditors regularly called, or upon the written request of a majority of the inspectors, or upon an order made by the judge, the assignee may examine upon oath before a master, local master, local registrar, judge of the county or district court, special examiner, official referee or any other person named in the order, the assignor or any person who is or has been his agent, clerk, servant, officer or employee of any kind, touching the estate and effects of the assignor, and as to the property and means he had when the earliest of his debts or liabilities existing at the date of the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him, and the person examined may be required by the assignee to produce upon such examination any property, book, document or paper in his custody, power or control. Examination of assignor or employees

(2) Unless otherwise ordered, the examination shall take place in the county or district in which the person to be examined resides. Where examination to take place

(3) The rules and procedure of the Supreme Court as to the examination of a judgment debtor, or any clerk or employee or former clerk or employee of a judgment debtor, so far as may be, apply to an examination held under subsection 1. R.S.O. 1950, c. 26, s. 37. Procedure on examination

38. Any person who has or is believed or suspected to have in his possession or power any book, document or paper of any kind relating in whole or in part to the assignor, his dealings or property and who refuses or fails to produce such book, document or paper for the inspection of the assignee within four days after demand in writing by the assignee may by order of the judge be examined before the judge or any of the officers mentioned in section 37 touching such book, document or paper, and he is subject to the same consequences in the case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make such production as are mentioned in section 40. R.S.O. 1950, c. 26, s. 38. Examination of persons having custody of property of assignor

39. If the assignor does not attend for examination and does not allege a sufficient excuse for not attending or, if attending, he refuses to disclose his property or his trans- When assignor does not attend or refuses to answer questions

actions respecting his property or does not make satisfactory answers respecting his property or if it appears from such examination that the assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the judge may order the assignor to be committed to the common jail of the county or district in which he resides for any period not exceeding twelve months. R.S.O. 1950, c. 26, s. 39.

Compelling
attendance
and
production
of books

40. Any person, other than the assignor, liable to be examined is subject to the same consequences in case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make production as a witness in an action in the Supreme Court. R.S.O. 1950, c. 26, s. 40.

CHAPTER 26

The Athletics Control Act

1. In this Act,

Interpre-
tation

- (a) "Commissioner" means the Athletics Commissioner;
- (b) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) "official" includes an examiner, judge, master of ceremonies, legally qualified medical practitioner, referee and time-keeper;
- (d) "person" includes a corporation, association, club and any unincorporated organization;
- (e) "professional contest or exhibition" means a professional contest or exhibition of baseball, bicycle riding, boxing, dancing, golf, hockey, jai-alai, lacrosse, motor-cycle riding, physical prowess whether by contortion or otherwise, rowing, rugby, running, skating whether speed skating or figure skating, soccer, swimming, tennis, wrestling or any professional contest or exhibition of any other sport or game designated by the Lieutenant Governor in Council. R.S.O. 1950, c. 27, s. 1, *amended*.

2. The administration of this Act is under the direction and control of the Minister. R.S.O. 1950, c. 27, s. 2.

Direction
and control

3. An Athletics Commissioner shall be appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 27, s. 3.

Athletics
Commis-
sioner

4.—(1) Every person conducting a professional boxing or wrestling contest or exhibition shall pay to the Minister an amount not less than 1 per cent and not more than 5 per cent of the gross receipts in respect of such contest or exhibition as shall be determined by the Minister with the approval of the Lieutenant Governor in Council.

Tax

Reduction
of tax

(2) Where a professional contest or exhibition is not the sole or main attraction offered at a presentation or exhibition for which admission is charged, the Minister may accept such amount as in the circumstances he deems proper in lieu of the percentage of the gross receipts payable under subsection 1.

Idem

(3) If the Minister is satisfied that the entire proceeds of a professional contest or exhibition are for charitable purposes, he may accept such amount as in the circumstances he deems proper in lieu of the percentage of the gross receipts payable under subsection 1.

Remission
of tax

(4) Every person conducting a professional contest or exhibition shall, within three days of the holding of such contest or exhibition, remit to the Minister by registered mail the amount payable under subsection 1.

Offence

(5) Every person who conducts or participates in conducting or holding a professional contest or exhibition and who fails to comply with this section, in addition to the payment of the amounts provided in subsection 1, is guilty of an offence and on summary conviction is liable to a fine of not less than an amount equal to such amounts. R.S.O. 1950, c. 27, s. 4.

Impounding
of boxing
and
wrestling
purses, etc.

5.—(1) Where the Commissioner or any other person charges,

- (a) that a boxing or wrestling contest or exhibition was conducted in violation of this Act or the regulations; or
- (b) that an agreement, contract or undertaking with respect to any boxing or wrestling contest or exhibition was entered into in violation of this Act or the regulations; or
- (c) that the conduct of a person connected with or participating in a boxing or wrestling contest or exhibition was in violation of this Act or the regulations or was not in the interest of boxing or wrestling,

the Commissioner may order any person to deliver to him forthwith any moneys that were paid or may be payable in connection with such contest or exhibition and such moneys shall be impounded by him pending the disposition of the charge.

(2) The Minister may direct the Commissioner or any other person to hold an investigation into the charge so made and to report thereon to him and, if in his opinion the charge has been proven, he may declare the moneys impounded to be forfeited, and such moneys thereupon become the property of the Crown.

(3) If the Minister does not direct an investigation or if he is of the opinion that the charge has not been proven, he shall order any moneys impounded to be released.

(4) Every person who fails to deliver moneys to the Commissioner in pursuance of an order made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than an amount equal to twice the amount of the moneys ordered to be delivered. R.S.O. 1950, c. 27, s. 5.

6. Where a branch of the Amateur Athletic Union of Canada in Ontario or a league or body connected with amateur sport operating in Ontario requests the Minister to cause investigation to be held into any matter that the branch, league or body considers should be investigated in the interest of amateur sport in Ontario, the Minister may direct the Commissioner or any other person to hold an investigation. R.S.O. 1950, c. 27, s. 6.

7. For the purposes of an investigation under section 5 or 6, the Commissioner or other person holding such investigation possesses all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 27, s. 7.

8. The moneys received by the Minister under section 4, together with all moneys received from licence and permit fees, fines and other pecuniary penalties and the impounding of purses or other remuneration, shall be paid into the Consolidated Revenue Fund. R.S.O. 1950, c. 27, s. 8.

9.—(1) Where moneys payable to the Minister under this Act or the regulations in respect of a professional contest or exhibition or a contest or exhibition of amateur boxing or wrestling are not received by the Minister within one week of the holding of such contest or exhibition, the Minister may direct that the building or other place where such contest or exhibition was held shall not be used for the holding of any professional contest or exhibition or any contest or exhibition of amateur boxing or wrestling until such moneys have been paid to the Minister.

Offence

(2) Where notice in writing of a direction made under subsection 1 is served upon or sent by registered mail to the owner, lessee or other person having control over the building or other place, such owner, lessee or other person is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$100 in respect of every professional contest or exhibition or contest or exhibition of amateur boxing or wrestling held in such building or at such place during the continuance in force of such direction. R.S.O. 1950, c. 27, s. 9.

Contracts to manage professional boxers and wrestlers

10. A contract or agreement entered into for the management of a person taking part in professional boxing or wrestling contests or exhibitions, or for the taking part in any such contest or exhibition, is not valid or of any force or effect unless it is in writing signed by the parties thereto and approved by the Commissioner, and the Commissioner may at any time, by notice in writing to the parties, revoke any approval given by him and thereupon the contract or agreement is for all purposes void and of no effect. R.S.O. 1950, c. 27, s. 10.

Powers of Commissioner

11.—(1) The Commissioner may,

- (a) delegate to any person any of the powers or duties conferred or imposed upon him by the regulations;
- (b) designate the officials for any professional contest or exhibition or any amateur boxing or wrestling contest or exhibition and fix the fees that shall be paid to them by the person holding the contest or exhibition.

Admission to contests and exhibitions

(2) The Commissioner or a person to whom he has delegated any of his powers or duties shall be admitted without charge to professional contests and exhibitions and amateur boxing and wrestling contests and exhibitions. R.S.O. 1950, c. 27, s. 11.

Regulations

12.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing the powers and duties of the Commissioner;
- (b) authorizing the Commissioner,
 - (i) to order any amateur or professional boxing contest or exhibition to be stopped if he deems it necessary,

- (ii) to approve the persons who may take part in professional boxing contests or exhibitions of more than ten three-minute rounds,
 - (iii) to designate the time and place of weighing-in for amateur and professional boxers and wrestlers,
 - (iv) to prescribe the time-limit for amateur and professional boxing and wrestling contests and exhibitions,
 - (v) to direct a professional boxing contest or exhibition to be held notwithstanding a boxer under contract to take part therein is overweight,
 - (vi) to settle disputes referred to him by professional boxers and persons holding professional boxing contests or exhibitions,
 - (vii) to permit a substitute for a boxer who is unable or refuses to take part in a professional boxing contest or exhibition, and
 - (viii) to determine the announcements that may be made from the ring in amateur and professional boxing and wrestling contests and exhibitions in addition to those authorized by the regulations;
- (c) prescribing the equipment to be used for and the rules applicable to the conduct of amateur and professional boxing and wrestling contests and exhibitions, including the appointment and duties of the officials of the contests and exhibitions, the definition of fouls and the manner of determining the winners;
- (d) providing for the issuing of licences and permits for the holding of amateur and professional boxing and wrestling contests and exhibitions and for the suspension and cancellation of such licences and the cancellation of such permits;
- (e) providing for the licensing of amateur and professional boxers and wrestlers, managers of professional boxers and wrestlers, referees, seconds and other officials officiating at amateur or professional boxing or wrestling contests or exhibitions and for the suspension and cancellation of such licences;
- (f) providing for the payment of fees for licences and permits and the manner of collecting such fees;

- (g) providing for payment to the Minister of a fee or charge by way of a licence fee or otherwise in respect of the holding of any amateur boxing or wrestling contest or exhibition and for the manner of collecting such fee or charge;
- (h) authorizing the Commissioner to levy fines or other pecuniary penalties against officials or against persons who are the holders or who by the regulations are required to be the holders of licences under this Act for failure to comply with any provision of this Act or of the regulations;
- (i) prescribing the forms of contracts to be used in connection with the services and management of professional boxers and wrestlers;
- (j) prescribing the duties of persons holding amateur or professional boxing or wrestling contests or exhibitions;
- (k) prescribing the security to be furnished to the Commissioner by persons holding professional boxing or wrestling contests or exhibitions to ensure payment of officials and contestants and the amount payable to the Minister under section 4;
- (l) regulating the holding and conduct of professional contests or exhibitions of dancing, swimming, rowing and tennis;
- (m) prescribing the classes of persons who may take part in amateur and professional boxing and wrestling contests and exhibitions;
- (n) defining "amateur" and "professional" for the purposes of this Act and the regulations;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

**General
penalty**

(2) Every person who contravenes any provision of this Act or of the regulations is guilty of an offence and on summary conviction is liable, if no other penalty is provided, to a fine of not less than \$20 and not more than \$1,000.

**Duplication
of penalties**

(3) Where a fine or other pecuniary penalty has been levied by the Commissioner under the regulations and such fine or other penalty has been paid, no proceedings shall be taken under *The Summary Convictions Act* in respect of the same matter. R.S.O. 1950, c. 27, s. 12.

CHAPTER 27

The Audit Act

1.—(1) The Lieutenant Governor in Council may appoint an officer to be called the “Provincial Auditor”, in this Act called the “Auditor”. ^{Appointment of Auditor}

(2) The Auditor shall be paid a salary to be fixed by the Lieutenant Governor in Council, which shall be charged to and paid out of the Consolidated Revenue Fund. R.S.O. 1950, c. 28, s. 1 (1, 2), *amended*. ^{Salary}

(3) The salary of the Auditor shall not be reduced except on address of the Assembly. R.S.O. 1950, c. 28, s. 2 (3). ^{Idem}

2. The Auditor shall hold office during good behaviour, but shall be removable for cause by the Lieutenant Governor on address of the Assembly. R.S.O. 1950, c. 28, s. 3. ^{Tenure of office}

3. The Lieutenant Governor in Council, upon the recommendation of the Auditor, may appoint an officer to be called the “Assistant Provincial Auditor” who, in the absence of the Auditor owing to illness or otherwise or in case of a vacancy in the office, shall during such absence or vacancy possess the powers and perform the duties of the Auditor. R.S.O. 1950, c. 28, s. 4, *amended*. ^{Assistant Auditor}

4. The Lieutenant Governor in Council, upon the recommendation of the Auditor, may appoint to the staff of the Auditor such officers, clerks and other persons as the Auditor deems necessary. R.S.O. 1950, c. 28, s. 5. ^{Appointment of officers}

5. The Auditor may make orders and rules for the conduct of the internal business of his office and may suspend any member of his staff. R.S.O. 1950, c. 28, s. 6. ^{Orders and rules, how made}

6. The Auditor may delegate to any member of his staff authority to perform any duty, act or function which by this Act he is required to do other than reporting to the Assembly or to the Lieutenant Governor in Council. R.S.O. 1950, c. 28, s. 7. ^{Delegation of authority}

Information
and access
to records

7. Every department of the public service shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as he from time to time requires, and the Auditor shall have access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the department and necessary to facilitate the audit and shall be afforded every facility for verifying transactions with the balances or securities held by depositaries, fiscal agents or custodians. R.S.O. 1950, c. 28, s. 9.

Responsi-
bility of
ministers
and officers,
and audit by
departments

8. Nothing in this Act shall be construed to affect the responsibility of any minister, deputy minister, departmental officer or other person charged with the administration of public moneys, and the responsibility for the conduct of the financial business of each department shall rest with the head of the department, and, before accounts are recommended to the Treasurer of Ontario for payment, they shall be checked and examined in detail and vouched as correct in every respect and allowed and passed by the proper departmental officers. R.S.O. 1950, c. 28, s. 10.

Auditor to
examine
expenditures

9.—(1) Except where otherwise provided, the Auditor shall examine on behalf of the Assembly all accounts of expenditure of public moneys out of the Consolidated Revenue Fund, whether held in trust or otherwise.

Purpose and
authority
for expendi-
ture to be
observed

(2) The Auditor shall satisfy himself that every account requisitioned for payment is in accordance with the terms and conditions of the grant to which the account relates.

Auditor may
admit
vouchers and
examine in
detail if
requested

(3) The Auditor, after satisfying himself that a voucher has been examined and certified as correct by the department concerned, may, in his discretion and having regard to the character of the departmental examination, admit it as satisfactory, but, if the Treasury Board desires any voucher to be examined in greater detail, the Auditor shall do so. R.S.O. 1950, c. 28, s. 11.

Accom-
modation
for staff

10. The Auditor may station one or more members of his staff in any department of the public service to enable him to carry out his duties under this Act more effectively, and the department shall provide such accommodation as is required for the purpose. R.S.O. 1950, c. 28, s. 12.

Issue of
cheques

11.—(1) Except as provided in this section or section 12, no cheque for the payment of public money shall issue without the certificate of the Auditor that there is legislative authority for the payment.

(2) When, upon an application for a cheque, the Auditor has reported that there is no legislative authority, then upon the written opinion of the Attorney General or Deputy Attorney General that there is legislative authority, citing it, the cheque may be issued. R.S.O. 1950, c. 28, s. 13 (1, 2). ^{Upon advice of Attorney General}

(3) The authority to make an expenditure under a special warrant lapses and any unexpended balance shall be written off at the end of the fiscal year in which the warrant is given, except that during the period of thirty days next following the end of the fiscal year there may be paid an amount not exceeding the unexpended balance of the warrant for the purpose of discharging any debt that was incurred during such fiscal year, and such expenditure may be charged in the accounts of such fiscal year. ^{Lapse of special warrants}

(4) When the Auditor has refused to certify that a cheque may issue, the minister of the department requisitioning the cheque may upon notice to the Auditor refer the matter to the Treasury Board and thereupon the correspondence in the case together with a memorandum stating, ^{Reference to Treasury Board}

(a) the legislative authority under which it is considered the expenditure may be made;

(b) the objections taken by the Auditor; and

(c) the answer to the objections,

shall be submitted by the minister in charge of the department to the Treasury Board and the Board may in its discretion order the issue of the cheque. R.S.O. 1950, c. 28, s. 13 (4, 5).

12.—(1) The certificate or order of the Attorney General or Deputy Attorney General that a sum of money is required to be paid out of the Consolidated Revenue Fund on account of the investigation, detection or punishment of any offence against the laws of Ontario or of Canada, or on account of special services or disbursements in connection with inquests, or any purpose connected with the administration of justice in either civil or criminal matters, is sufficient authority for the issuing of a cheque by the Treasurer of Ontario for the amount named in the certificate or order, and the officer or other person to whom the cheque is issued shall account to the Attorney General for the proper disbursement of the amount received by such officer or other person. ^{Payment for special cases}

Certificate
that moneys
accounted
for

(2) The certificate of the Attorney General or Deputy Attorney General that any moneys received by any officer or other person under this section have been duly accounted for is final and conclusive and the account shall not be subject to any further examination. R.S.O. 1950, c. 28, s. 14.

Counter-
signing
cheques

13. Every cheque issued by the Treasurer of Ontario shall be countersigned by the Auditor. R.S.O. 1950, c. 28, s. 15.

Accounts
for work,
etc., to be
certified

14.—(1) No payment shall be authorized by the Auditor in respect of services, publications, grants, work or material unless, in addition to any other voucher or certificate that may be required, the accounts accompanying the requisition for payment bear the certificate of an official who has knowledge of the facts to the effect that the person has been in attendance, that the publication is being received and is billed at scheduled rates, that any relevant regulations have been complied with, that the work has been performed or the material supplied, as the case may be, and that the price charged is according to contract or, if not covered by contract, is fair and just.

Approval
by order
in council

(2) Notwithstanding any provision of this Act, the Auditor, before authorizing the payment of any public money, may require the matter to be referred to the Lieutenant Governor in Council for his approval, and, unless the approval of the Lieutenant Governor in Council is given, such payment shall not be made. R.S.O. 1950, c. 28, s. 16.

Fiscal year

15.—(1) The Public Accounts cover the period from the commencement of business on the 1st day of April in one year to the close of business on the 31st day of March in the next year, which period constitutes the fiscal year.

Estimates

(2) All estimates submitted to the Legislature shall be for services coming in course of payment during the fiscal year.

Lapse of
appro-
priations

(3) All balances of appropriations that remain unexpended at the end of a fiscal year lapse and shall be written off, except that during the period of thirty days next following the end of such fiscal year there may be paid out of any appropriation an amount not exceeding the unexpended balance of the appropriation for the purpose of discharging any debt that was incurred during such fiscal year, and the expenditure may be charged in the accounts of such fiscal year, but any debts that remain unpaid at the end of the period of thirty days next following the end of such fiscal year shall be paid out of the appropriation for the ensuing fiscal year. R.S.O. 1950, c. 28, s. 18.

16. The Public Accounts shall be prepared under the direction of the Auditor and shall be delivered to the Lieutenant Governor in Council and laid before the Assembly within the first ten days of the first session held in the following calendar year. R.S.O. 1950, c. 28, s. 19.

17. If a difference arises between the Auditor and the minister of any department respecting the appropriation or account to which an authorized expenditure should be charged, the difference may be referred by the minister to the Treasury Board, and the Board shall determine in what manner and to what appropriation or account the expenditure shall be charged. R.S.O. 1950, c. 28, s. 21.

18. Notwithstanding anything in this Act, whenever the Assembly has concurred in the report of the Committee of Supply recommending the passing of any estimates, the Lieutenant Governor in Council may authorize the payment of any items of expenditure so concurred in. R.S.O. 1950, c. 28, s. 22.

19.—(1) The Auditor shall, on behalf of the Assembly, examine all accounts of receipts of public moneys forming part of the Consolidated Revenue Fund whether held in trust or otherwise in order to ascertain that adequate regulations and procedures are in operation to secure an effective check on the assessment, collection and allocation of revenue.

(2) The auditor shall satisfy himself as to the correctness of the accounts mentioned in subsection 1. R.S.O. 1950, c. 28, s. 24.

20.—(1) The Auditor shall make an annual report to the Assembly respecting the fiscal year then closed,

(a) as to his examination of accounts of receipts and payments of public moneys;

(b) as to his examination of the balance sheet and related schedules shown in the Public Accounts, in which he shall state whether they were compared with the books of account and financial records, and whether he has obtained all the information and explanations he has required, and whether, in his opinion, they are properly drawn up so as to present fairly the financial position of the Province;

(c) as to all special warrants and cheques for the issue of which he has refused to certify, citing the date

and the amount of any expenditures incurred in consequence thereof;

(d) as to all orders of the Treasury Board issued for the authorization of expenditure in excess of appropriations, citing the date, the amount authorized and the amount expended;

(e) as to any important change in the extent or character of any examination made by him; and

(f) as to such matters as he desires to bring to the attention of the Assembly.

Tabling
report

(2) The report of the Auditor shall be delivered to the Lieutenant Governor in Council and laid before the Assembly within the first ten days of the first session held in the following calendar year. R.S.O. 1950, c. 28, s. 25.

Auditor of
Crown
agencies

21. Nothing in this Act shall be construed to require the Auditor to examine or report upon the accounts of any agency of the Crown if the Lieutenant Governor in Council, in pursuance of statutory authority in that behalf, has designated another auditor to examine and report upon the accounts of such agency. R.S.O. 1950, c. 28, s. 26.

Auditor may
examine
on oath

22. The Auditor may examine any person on oath on any matter pertinent to any account submitted to him for examination, and such oath may be administered by him to any person whom he desires to examine. R.S.O. 1950, c. 28, s. 27.

Facsimile
signatures

23. The Auditor may authorize the use of a facsimile of his signature or a facsimile of the signature of any officer or clerk authorized to sign for him. R.S.O. 1950, c. 28, s. 29.

CHAPTER 28

The Bail Act

1. In cases in which a person has been committed for trial and is admitted to bail, the Crown attorney shall, and, in any other case in which a person is admitted to bail, the Crown attorney may, deliver or transmit a certificate of lien (Form 1) to the sheriff of the county in which the land mentioned therein is situate. 1957, c. 3, s. 1.

Crown
attorney
to deliver
or transmit
certificate
of lien

2. Upon the receipt of a certificate of lien, the sheriff shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the surety shown on the certificate of lien. 1957, c. 3, s. 2.

Endorse-
ment and
index book

3.—(1) The sheriff forthwith upon the receipt of a certificate of lien affecting land under the land titles system shall deliver or transmit to the proper master of titles a copy of the certificate of lien without his endorsement.

Sheriff to
deliver or
transmit
copy to
land titles
office

(2) Upon the receipt of a copy of a certificate of lien, the proper master of titles shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the surety shown on the certificate of lien. 1957, c. 3, s. 3.

Entry by
master of
titles in
index book

4. Where the land mentioned in the certificate of lien is under the land registry system, the Crown, as soon as the entry mentioned in section 2 is made, has a lien against the surety's property mentioned in the certificate of lien for an amount equal to the amount for which he offered himself as a surety as shown in the certificate of lien. 1957, c. 3, s. 4.

Where land
under
registry
system

5. Where the land mentioned in the certificate of lien is under the land titles system, the Crown, as soon as the entry mentioned in subsection 2 of section 3 is made, has a lien against the surety's property mentioned in the certificate of lien for an amount equal to the amount for which he offered himself as a surety as shown in the certificate of lien. 1957, c. 3, s. 5.

Where land
under land
titles
system

Certificate
re execution
against
lands

6. Where a certificate respecting executions against lands is required from a sheriff, master of titles or local master of titles, he shall, without additional fee, include in the execution certificate a statement as to whether there is a name shown on the index book mentioned in section 2 or subsection 2 of section 3, as the case may be, that is the same as the name shown on the certificate. 1957, c. 3, s. 6.

Crown
attorney
to deliver
or transmit
copy of
certificate
of discharge

7. As soon as a surety is discharged, the lien is discharged, and the Crown attorney shall deliver or transmit a certificate of discharge (Form 2) to the sheriff to whom the certificate of lien was delivered or transmitted. 1957, c. 3, s. 7.

Disposal of
certificate
of lien in
sheriff's
office

8. Upon the receipt of a certificate of discharge, the sheriff shall attach the certificate of discharge to the proper certificate of lien and strike the name of the surety from the index book kept pursuant to section 2. 1957, c. 3, s. 8.

Sheriff to
deliver or
transmit
copy of
certificate
of discharge
to master's
office

9.—(1) Where the land mentioned in a certificate of discharge is under the land titles system, the sheriff forthwith upon the receipt of the certificate of discharge shall deliver or transmit to the proper master of titles a copy of the certificate of discharge.

Disposal of
certificate
of lien in
land titles
office

(2) Upon the receipt of a copy of a certificate of discharge from the sheriff, the proper master of titles shall attach the copy of the certificate of discharge to the proper certificate of lien and strike the name of the surety from the index book kept pursuant to subsection 2 of section 3. 1957, c. 3, s. 9.

FORM 1

(Section 1)

CERTIFICATE OF LIEN

I,, Crown attorney for the.....
..... of, hereby certify
that of the
of, is a surety for bail in the
sum of \$..... for the appearance of
The surety has real property as follows:

Street address
Lot and plan number.....

(or if in land titles)

Parcel number.....

Dated at this day of,
19.....

.....
Crown Attorney
for the County of.....

1957, c. 3, Form 1.

FORM 2

(Section 7)

CERTIFICATE OF DISCHARGE

The certificate of lien, dated the day of,
19....., wherein was named
surety for the appearance of in the amount
of \$....., is discharged.

Dated at this day of,
19.....

.....
Crown Attorney
for the County of.....

1957, c. 3, Form 2.

CHAPTER 29

The Bailiffs Act

1. In this Act,

Interpre-
tation

- (a) "bailiff" means a person acting or holding himself out as being prepared to act for or on behalf of any other person in the seizure and sale or seizure only of chattels, or in any eviction, or the collection of rent or taxes by distress, or the repossession of goods or chattels under a conditional sale or lien contract, hire purchase agreement, chattel mortgage or other form of security;
- (b) "certificate of qualification" means a certificate of qualification issued under this Act;
- (c) "county" includes united counties and a provisional judicial district;
- (d) "county court" includes a district court. R.S.O. 1950, c. 30, s. 1.

2.—(1) No person shall act as a bailiff unless he is the holder of a certificate of qualification. Certificate
required

(2) Every person who is the holder of a certificate of qualification may act as a bailiff in any part of Ontario. Scope of
authority R.S.O. 1950, c. 30, s. 2.

3.—(1) Every application for a certificate of qualification shall be made in writing to the clerk of the county court of the county in which the applicant intends to carry on business as a bailiff and shall state, Application
for
certificate

- (a) the name and place of residence of the applicant;
- (b) the place where the applicant intends to carry on business;
- (c) the qualifications of the applicant and his experience as a bailiff;

- (d) any circumstances indicating that a bailiff is needed for the public convenience in the place where the applicant intends to carry on business as a bailiff;
- (e) whether the applicant has previously held a certificate of qualification and, if so, the county in which the certificate was issued; and
- (f) whether any certificate of qualification at any time held by the applicant has been cancelled and, if so, the date of and the name of the judge who directed the cancellation and the reasons therefor.

Examination
of
applicant

(2) Upon receiving an application, the clerk of the county court shall arrange an appointment with the judge of the county court for the examination of the applicant and shall notify the applicant of the time and place of the appointment by registered mail.

Certification
of
application

(3) If upon the examination of the applicant the judge finds him qualified to act as a bailiff and is of opinion that a bailiff is needed for the public convenience in the place where the applicant intends to carry on business as a bailiff, he shall so certify upon the application and forward it to the clerk of the county court. R.S.O. 1950, c. 30, s. 3.

Issue and
filing of
certificate

4.—(1) Upon receiving an application certified by the judge, the clerk of the county court shall,

- (a) issue a certificate of qualification to the applicant;
- (b) file the application and judge's certificate in his office; and
- (c) record the issue of the certificate of qualification in a book kept for that purpose.

Change of
address

(2) Every holder of a certificate of qualification shall forthwith report every change of his address to the clerk of the county court from which his certificate of qualification was issued. R.S.O. 1950, c. 30, s. 4.

Cancellation
of
certificate

5.—(1) A judge of any county court may direct the clerk of any county court from which a certificate of qualification has been issued to cancel such certificate and every such direction shall be accompanied by a statement of the reason for directing the cancellation.

(2) Upon the receipt of a direction made under subsection 1, the clerk of the county court shall, Notice and recording of cancellation

(a) send a notice of the cancellation of the certificate of qualification to the holder thereof by registered mail at the last address furnished by him to the clerk of the county court;

(b) file the direction and statement of reasons accompanying it with the application and judge's certificate; and

(c) record the cancellation in the book kept for recording the issue of certificates of qualification.

(3) Upon compliance with clause *a* of subsection 2 a certificate shall be deemed to be cancelled. When certificate deemed to be cancelled

(4) Nothing in this section prevents the making of a further application for a certificate of qualification. R.S.O. 1950, c. 30, s. 5. Further application

6. This Act does not apply to a person appointed as a bailiff under *The Division Courts Act* or to a person acting as a sheriff's bailiff. R.S.O. 1950, c. 30, s. 6. Where Act not to apply R.S.O. 1960, c. 110

7. Nothing in this Act affects the right of a municipal council to pass by-laws for licensing, regulating and governing bailiffs under *The Municipal Act*. R.S.O. 1950, c. 30, s. 7. Right of municipal councils R.S.O. 1960, c. 249

8. Every person who contravenes this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 30, s. 8. Offence

9. The Lieutenant Governor in Council may make regulations, Regulations

(a) respecting applications for certificates, examination of applicants, and the issue and cancellation of certificates;

(b) prescribing forms and providing for their use;

(c) prescribing fees payable under this Act;

(d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 30, s. 9, *amended*.

CHAPTER 30

The Barristers Act

1. In this Act, "Society" means The Law Society of Upper Canada. R.S.O. 1950, c. 31, s. 1. Interpretation

2. The benchers of the Society may make such rules, regulations or by-laws as to them seem necessary and proper touching the call or admission of any persons, being British subjects, to practise at the bar of Her Majesty's courts in Ontario and such persons and no others are entitled to practise within the said courts. R.S.O. 1950, c. 31, s. 2. Benchers may make rules as to admission of barristers

3.—(1) Any person who has been duly admitted and enrolled as a solicitor of the Supreme Court and who has been in actual practice for ten years or more before filing his application for call is entitled to be called to the bar without any examination and may be admitted to practise at the bar of Her Majesty's courts in Ontario. Admission of solicitors as barristers after ten years practice

(2) Any person who has been duly admitted and enrolled as a solicitor of the Supreme Court and who has been in actual practice for five or more years but less than ten years before filing his application for call is entitled to be called to the bar on passing such examination as is prescribed by the Society for such cases and may be admitted to practise at the bar of Her Majesty's courts in Ontario. Idem, after five years practice

(3) For the purpose of this section, a solicitor holding an office in the Supreme Court to which he was appointed by the Crown shall be deemed to have been in actual practice within the meaning of this Act while holding such office. Solicitors holding office in Supreme Court

(4) Notice of the intention of a candidate to apply for call under this section is sufficient if written notice is given to the Secretary of the Society as in the case of a student-at-law for call, and the notice of presentation to convocation shall be signed by a barrister practising in the county or district in which the candidate resides, and shall certify that the candidate is, in his opinion, a fit and proper person to be called to the bar. Notice of application

(5) Every such solicitor, before being called to the bar, shall pay such fees only as are paid on called to the bar in ordinary cases. R.S.O. 1950, c. 31, s. 3. Fees

Call of
Minister of
Justice or
Solicitor
General

4. A person who is or has been Minister of Justice of Canada or Solicitor General of Canada is entitled to be called to the bar of Ontario without complying with any of the rules of the Society as to admission, examinations, payment of fees or otherwise, and is thereupon entitled to practise at the bar of Her Majesty's courts in Ontario. R.S.O. 1950, c. 31, s. 4.

Who may
act as
barristers

5.—(1) Unless called and admitted to practise at the bar of Her Majesty's courts in Ontario, no person shall act as a barrister in any court of civil or criminal jurisdiction or before any justice of the peace, or hold himself out or represent himself to be entitled to practise at the bar of Her Majesty's courts in Ontario.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and is liable to a fine of not more than \$100 for a first offence and not more than \$200 for a subsequent offence.

Recovery
of fines
R.S.O. 1960,
c. 387

(3) The fines imposed by this section may be recovered in the manner provided by *The Summary Convictions Act* or upon application by the Society to a judge of the Supreme Court by originating notice.

Where
proceedings
taken under
subs. 3

(4) Where proceedings by originating notice are taken under subsection 3, the rules of practice of the Supreme Court apply.

Order of
judge

(5) The judge, upon finding that a person has contravened subsection 1, may, in addition to ordering payment of the fine, make an order enjoining him from practising or holding himself out as being entitled to practise at the bar of Her Majesty's courts in Ontario.

Enforcement
of order

(6) An order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon application by originating notice.

Application
of section

(7) This section shall be read and construed subject to any statute that authorizes the appearance of a person other than a barrister in court.

Disposition
of fines

(8) The fines recovered under this section shall be paid to the Treasurer of Ontario. R.S.O. 1950, c. 31, s. 5.

Appointment
of Queen's
Counsel

6. The Lieutenant Governor may, by letters patent under the Great Seal, appoint from the members of the bar of Ontario such persons as he deems proper to be, during

pleasure, provincial officers under the name of "Her Majesty's counsel learned in the law" for Ontario. R.S.O. 1950, c. 31, s. 6.

7. The disbarment of a barrister who holds an appointment as one of Her Majesty's counsel learned in the law has the effect of revoking such appointment. R.S.O. 1950, c. 31, s. 7. Disbarment revokes Q.C. appointment

8.—(1) The following members of the bar of Ontario have precedence in the courts of Ontario in the following order: Order of precedence at the bar

1. The Minister of Justice of Canada.
2. The Attorney General for Ontario.
3. The members of the bar who have filled the office of Minister of Justice of Canada or Attorney General for Ontario, according to seniority of appointment. R.S.O. 1950, c. 31, s. 8.

(2) The Lieutenant Governor, by letters patent under the Great Seal, may grant to any member of the bar a patent of precedence in the courts of Ontario. R.S.O. 1950, c. 31, s. 9. Patents of precedence

(3) Queen's counsel for Ontario have precedence in the courts according to seniority of appointment unless otherwise provided in the letters patent. R.S.O. 1950, c. 31, s. 10. Precedence of Queen's Counsel

(4) The remaining members of the bar, as among themselves, have precedence in the courts in the order of their call to the bar. R.S.O. 1950, c. 31, s. 11. Precedence of other members of the bar

(5) Nothing in this Act affects or alters any rights of precedence that appertain to any member of the bar when acting as counsel for Her Majesty, or for any attorney general of Her Majesty, in any matter depending in the name of Her Majesty or of the attorney general before the courts, but such right and precedence remain as if this Act had not been passed. R.S.O. 1950, c. 31, s. 12. Crown Counsel

CHAPTER 31

The Beach Protection Act

1. In this Act,

Interpre-
tation

- (a) "licence" means a licence issued under this Act;
- (b) "Minister" means the Minister of Mines;
- (c) "regulations" means the regulations made under this Act;
- (d) "sand" includes earth, gravel and stone. R.S.O. 1950, c. 32, s. 1.

2.—(1) The Minister may issue licences for the taking of sand from the bed, bank, beach, shore or waters of any lake, river or stream or from any bar or flat in any lake, river or stream or adjoining any channel or entrance to any lake, river or stream in accordance with the regulations, and may suspend or cancel any licence.

Issue and
revocation
of licence

(2) Each licence is effective only in the geographical area defined therein, and shall contain such particular terms and conditions as to its operation as the Minister directs. R.S.O. 1950, c. 32, s. 2.

Operation
of licence

3.—(1) No person, unless he is the holder of a licence, shall take or carry away in any boat, vessel, craft, cart, truck or other conveyance, or otherwise transport by land or water or remove by drag-line or other mechanical device, any sand from a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 whether or not such bed, bank, beach, shore, waters, bar or flat is owned by such person. R.S.O. 1950, c. 32, s. 3 (1).

Prohibition
against
taking sand

(2) Subsection 1 does not apply to the removal of sand,

Where
licence not
required

- (a) by a municipality for municipal use; or
- (b) by a *bona fide* resident of Ontario for his personal use and not for resale or for use for commercial purposes,

if the removal is with the written consent of an official designated by the council of the local municipality in which the sand is situate. 1959, c. 7, s. 1.

Being
present to
remove
sand

4. Subject to subsection 2 of section 3, no person shall go upon any bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 for the purpose of removing or assisting to remove any sand therefrom except under the authority of a licence. R.S.O. 1950, c. 32, s. 4.

Having
sand
unlawfully
taken on
vessel

5. No person shall have on board his vessel or on a vessel in his possession or control any sand taken contrary to this Act. R.S.O. 1950, c. 32, s. 5.

Issue of
search
warrant

6.—(1) Where a person makes oath before a justice of the peace that he has reason to believe and does believe that sand, in contravention of section 3, 4 or 5, is on board any vessel, or at any place, the justice of the peace shall issue a search warrant directed to a sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place and, if any sand is found thereon or thereat, he shall seize it and the vessel, if any, in which it is contained, and shall keep them secure until final action as hereinafter provided is had thereon.

Prosecution

(2) The owner, master or person in possession of the vessel, or person in possession of sand, shall, without further information laid, be summoned forthwith by the justice who issued the warrant to appear before a magistrate, and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the magistrate that a contravention has taken place, the magistrate may convict the owner, master or person in possession. R.S.O. 1950, c. 32, s. 6.

Removal of
sand from
bed of
certain
streams
prohibited

7.—(1) No person shall remove any sand from the bed of any river, stream or creek running between two municipalities without the consent of the councils of such municipalities, and in no case shall any sand be removed from the bed of any river, stream or creek so as to injure or endanger the safety of any bridge, drainage pipe, watermain or other structure erected or laid by a municipal corporation.

Offence

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$25. R.S.O. 1950, c. 32, s. 7.

Removal of
sand from
street or
road
prohibited

8.—(1) No person shall remove any sand from any street or road or from the extension of any street or road into any river or lake without the consent of the council of the municipality in which it is situate.

(2) Every person who contravenes any provision of sub-^{Offence} section 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$10 for every load removed. R.S.O. 1950, c. 32, s. 8.

9.—(1) Notwithstanding any other provision of this or ^{Removal of sand from Erie, Ontario, Huron} any other Act or in any regulation or order made under this or any other Act, the Lieutenant Governor in Council may make regulations prohibiting or restricting, subject to the terms and conditions contained therein, the taking, removing and carrying away by cart, truck, vessel or any other vehicle or water craft of any sand from any bed, beach, shore or waters of or adjacent to any part of the shores of Lake Erie, Lake Ontario or Lake Huron, or from any land covered by the waters of any of such lakes adjacent to such shore, or from any sandbar or flat therein or adjoining any channel or entrance thereto as described in the regulations.

(2) Such prohibition or restriction extends to the owner, ^{Extent of prohibition or restriction} tenant or occupant of any such bed, beach, shore, sandbar or flat and to any person claiming under the authority of any municipal corporation or of any order of the Ontario Municipal Board and to every other individual and corporation.

(3) Every person who contravenes the prohibition or re-^{Offence} striction contained in any such regulation is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1950, c. 32, s. 9.

10. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on ^{General penalty; consent to prosecute} summary conviction, if no other penalty is provided, is liable to a fine of not less than \$10 and not more than \$1,000, but no prosecution shall be commenced except with the consent in writing of the Attorney General. R.S.O. 1950, c. 32, s. 10.

11. Save as otherwise provided in this Act, *The Summary* ^{Application of} *Convictions Act* applies to all proceedings taken under this ^{R.S.O. 1960, c. 387} Act. R.S.O. 1950, c. 32, s. 11.

12. In addition to the method of service prescribed by ^{Service of proceedings} *The Summary Convictions Act*, any summons or other proceeding may, where it is directed to a person on board a vessel, be served by leaving it, or a copy thereof, with the person who is or appears to be in charge or command of the vessel. R.S.O. 1950, c. 32, s. 12.

Burden of
proof

13. In any prosecution the burden of proving the right to take sand is upon the person charged with a contravention of the Act. R.S.O. 1950, c. 32, s. 13.

Royalties

14.—(1) A person to whom a licence is issued may be required to pay to the Crown, in addition to his licence fee, a fixed sum for every yard of sand removed under the authority of the licence.

Amount of
royalty

(2) The amount to be charged per yard shall be fixed by the Minister according to the location, type, availability and accessibility of the sand.

Security

(3) The Minister may require a person to whom such a licence is issued and by whom such sums are payable to the Crown to give security by bond satisfactory to the Minister for the payment of such sums. R.S.O. 1950, c. 32, s. 14.

Sale of
vessel, etc.,
for payment
of penalty
R.S.O. 1960,
c. 387

15.—(1) In addition to the remedies provided by *The Summary Convictions Act* for the recovery of penalties, any penalty imposed for a contravention of this Act, if not paid in accordance with the conviction, may be levied by the sale of any vessel, conveyance, drag-line or other mechanical device involved in the commission of the offence under the warrant of the convicting magistrate.

Payment of
balance to
owner

(2) Upon return being made of the sale, after satisfying the fine and the costs of the sale, the overplus, if any, shall be paid to the owner of the vessel. R.S.O. 1950, c. 32, s. 15.

Regulations

16. The Lieutenant Governor in Council may make regulations,

- (a) providing for the issue and renewal of licences and prescribing the terms and conditions thereof and the fees payable therefor;
 - (b) prescribing the form and contents of security bonds;
 - (c) prescribing forms and providing for their use;
 - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 32, s. 16, *amended*.
-

CHAPTER 32

The Beds of Navigable Waters Act

1. Where land that borders on a navigable body of water or stream, or on which the whole or a part of a navigable body of water or stream is situate, or through which a navigable body of water or stream flows, has been heretofore or is hereafter granted by the Crown, it shall be deemed, in the absence of an express grant of it, that the bed of such body of water was not intended to pass and did not pass to the grantee. 1951, c. 5, s. 2.

Grant to be
deemed to
exclude
the bed

2. Section 1 does not affect the rights, if any, of a grantee from the Crown or of a person claiming under him, where such rights were, previous to the 24th day of March, 1911, determined by a court of competent jurisdiction in accordance with the rules of the English Common Law, or of a grantee from the Crown, or a person claiming under him who establishes to the satisfaction of the Lieutenant Governor that he or any person under whom he claims has previous to the 24th day of March, 1911, developed a water power or powers under the *bona fide* belief that he had the legal right to do so, provided that he may be required by the Lieutenant Governor in Council to develop such power or powers to the fullest possible extent and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may direct that letters patent granting such rights to be issued to such grantee or person claiming under him under and subject to such conditions and provisions as are deemed proper for insuring the full development of such water power or powers and the regulation of the price to be charged for power derived from them. R.S.O. 1950, c. 34, s. 3, *amended*.

Saving as
to certain
cases

3. This Act does not apply to the bed of the river in Lot 8 in the 6th Concession of the Township of Merritt in the District of Sudbury. R.S.O. 1950, c. 34, s. 4.

Act not to
apply to
a certain
locality

4. Notwithstanding any other provision of this Act, the case of any person setting up on special grounds a claim to receive from the Crown a grant or lease of any part of the bed of a navigable body of water or stream shall be dealt with by the Lieutenant Governor in Council as he deems fair and just. R.S.O. 1950, c. 34, s. 5.

Lieutenant
Governor
may deal
with special
cases

CHAPTER 33

The Bees Act

1. In this Act,

- (a) "bee-keeper" means a person who owns or is in possession of an apiary including the bees kept therein; <sup>Interpre-
tation</sup>
- (b) "bees" means the insects known as *apis mellifera*;
- (c) "bees-wax refuse" means damaged honeycombs, honeycomb cappings or the material remaining after the first rendering of used honeycombs or honeycomb cappings;
- (d) "disease" means,
 - (i) American foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *bacillus larvae*,
 - (ii) European foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *bacillus pluton* or *bacillus alvei*, and
 - (iii) any disease designated by the regulations as a disease within the meaning of this Act;
- (e) "infected" means infected with the causal organisms of a disease;
- (f) "inspector" means an inspector appointed under this Act;
- (g) "Minister" means the Minister of Agriculture;
- (h) "package bees" means bees placed in a screened cage or package without honeycombs for the purpose of being shipped. 1954, c. 4, s. 1.

2. Bees reared and kept in hives are private property. <sup>Bees in
hive private
property</sup>
1954, c. 4, s. 2.

Right of owner to pursue and recover swarm

3.—(1) Subject to subsections 2, 3 and 4, where a swarm of bees leaves a hive, the owner of the swarm may enter upon the premises of any person and recover the swarm.

Where owner declines to pursue swarm

(2) Where the owner of a swarm of bees that leaves its hive declines to pursue it and another person takes up the pursuit, such other person is subrogated to all the rights of the owner in respect of the swarm.

Owner of premises to be notified

(3) Where the right to recover a swarm of bees is claimed under subsection 1 or 2, the person claiming the swarm shall notify the owner of the premises on which the swarm has settled before entering his premises and shall compensate him for any damage to his premises caused by the entry.

When right of property in swarm lost

(4) Where a swarm of bees leaves a hive and settles in an occupied hive owned by a person other than the owner of the swarm, the owner of the swarm loses all right of property in the swarm. 1954, c. 4, s. 3.

Appointment of Provincial Apiarist and inspectors

4.—(1) The Lieutenant Governor in Council may appoint a Provincial Apiarist, an Assistant Provincial Apiarist and such inspectors as are deemed necessary for the administration and enforcement of this Act and the regulations.

Assistant Provincial Apiarist

(2) The Assistant Provincial Apiarist shall act in lieu of the Provincial Apiarist in the absence of the Provincial Apiarist or when so instructed to act by him and when so doing has all the powers and may perform any of the duties of the Provincial Apiarist.

Provincial Apiarist

(3) The Provincial Apiarist has all the powers and may perform any of the duties of an inspector.

Duties of inspector

(4) It is the duty of an inspector when he deems it necessary or when so instructed by the Provincial Apiarist,

(a) to inspect any bees, hives or equipment pertaining to the keeping of bees to ascertain if any disease exists in the bees, or if the hives or equipment are infected, or if the provisions of this Act and the regulations have been complied with or contravened;

(b) to inspect any books or records required by this Act or the regulations to be kept by bee-keepers and persons who sell bees.

Employment of persons by inspector

(5) With the approval of the Provincial Apiarist, an inspector may employ such persons as he requires to assist him in an inspection and such persons shall be paid such amounts as the Minister determines.

(6) In the performance of his duties under this Act and the regulations, an inspector may at any time between sunrise and sunset enter any premises where bees, hives, equipment or books or records pertaining to the keeping of bees are kept or stored. Right of entry

(7) No person shall obstruct the Provincial Apiarist, Assistant Provincial Apiarist or an inspector in the performance of his duties or furnish him with false information. Obstruction of inspector

(8) Every bee-keeper shall, when requested so to do by an inspector, assist the inspector in an inspection on the premises of the bee-keeper. 1954, c. 4, s. 4. Assistance of bee-keeper in inspection

5.—(1) Where in the opinion of an inspector disease of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, Destruction of infected bees, etc., on order of inspector

- (a) require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires; or
- (b) require the bee-keeper to destroy by fire, within such period as the order requires, such bees, hives or equipment as in the opinion of the inspector cannot be disinfected.

(2) Where in the opinion of an inspector disease not of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires. Treatment of diseased bees, etc., on order of inspector

(3) If the bee-keeper fails to carry out the instructions in an order given under subsection 1 or 2 within such period as the order requires or if so requested by the bee-keeper, the inspector may carry out the instructions in the order and the bee-keeper shall compensate the inspector for any expenses incurred in carrying out the instructions. Power of inspector to destroy or treat diseased bees, etc.

(4) Every order under this section shall be delivered to the bee-keeper by an inspector or sent by prepaid post to his last or usual place of abode. 1954, c. 4, s. 5. Order

6.—(1) No bee-keeper shall keep bees in a hive without movable frames. 1954, c. 4, s. 12. Bees in hive without movable frames

Transfer of
bees to hives
with mov-
able frames

(2) Where an inspector finds that bees are kept in a hive without movable frames, he may order that they be transferred to hives with movable frames within such period as he specifies.

Failure of
bee-keeper
to transfer

(3) If a bee-keeper fails to transfer the bees in accordance with an order under subsection 2, the inspector may destroy the hives and the bees dwelling therein. 1954, c. 4, s. 6.

Appeal

7.—(1) Where a bee-keeper deems himself aggrieved by an order of an inspector, he may within five days of the receipt of the order appeal against the order by notice to the Provincial Apiarist.

Idem

(2) Upon receipt of a notice of appeal, the Provincial Apiarist shall confirm, revoke or modify the order appealed against and shall notify the appellant of his decision by prepaid post and the appellant shall carry out such order as is given by the Provincial Apiarist in his decision. 1954, c. 4, s. 7.

Information
as to the
location of
hives, etc.,
to be given
inspector

8. When requested by an inspector, every bee-keeper shall inform the inspector of the location of all hives and equipment pertaining to the keeping of bees in the possession of the bee-keeper. 1954, c. 4, s. 8.

Concealing
existence
of disease

9. No bee-keeper shall conceal the existence of any disease. 1954, c. 4, s. 9.

Duty of
bee-keeper
to report
existence
of disease

10. Every bee-keeper who finds the existence of disease of a virulent type in his own apiary or elsewhere shall immediately report the existence of the disease to the Provincial Apiarist. 1954, c. 4, s. 10.

Quarantine
of bees

11.—(1) The Lieutenant Governor in Council may declare a quarantine of bees in any area in Ontario that he designates and may fix the duration of the quarantine and the conditions with respect thereto.

Moving
bees to
or from
quarantine

(2) No person shall move any bees, hives or equipment pertaining to the keeping of bees to or from an area of quarantine without a permit from the Provincial Apiarist. 1954, c. 4, s. 11.

Permit
required for
sale or
removal
of bees

12.—(1) No bee-keeper shall sell or remove or cause to be removed from his premises any bees, hives or equipment pertaining to the keeping of bees without a permit from the Provincial Apiarist stating that such bees, hives or equipment were inspected and found to be free from disease or infection.

(2) Subsection 1 does not apply where the bees and equipment are moved by the bee-keeper from his extracting plant to his apiaries or from his apiaries to his extracting plant. 1954, c. 4, s. 13.

13. No person shall receive or transport in any manner within Ontario any bees other than package bees or used hives or used equipment pertaining to the keeping of bees obtained from outside Ontario without a permit from the Provincial Apiarist stating that he is satisfied that such bees are free from disease and that such used hives or used equipment are not infected. 1954, c. 4, s. 14.

Exception
Permit
required to
receive or
transport
bees
obtained
outside
Ontario

14. No bee-keeper shall expose on his premises or elsewhere any infected honeycomb or honey in such manner that it is accessible to bees. 1954, c. 4, s. 15.

Exposing
of infected
comb or
honey

15.—(1) Where dead colonies of bees or honeycombs are exposed in such manner that they are accessible to bees, except where they are exposed for the purpose of cleaning or disinfecting, the Provincial Apiarist may require the bee-keeper to dispose of such colonies and honeycombs in such manner and within such period as the Provincial Apiarist specifies.

Disposal of
dead colonies
of bees, etc.

(2) If the bee-keeper fails to dispose of such colonies and honeycombs as required by the Provincial Apiarist, the Provincial Apiarist may dispose of them and the bee-keeper shall compensate the Provincial Apiarist for any expense incurred in disposing of them. 1954, c. 4, s. 16.

Disposal by
inspector

16. No person who sells package bees shall use as food for such bees any honey or candy containing honey. 1954, c. 4, s. 17.

Honey pro-
hibited as
food for bees

17. Every person who receives bees that have been obtained from outside Ontario shall, within ten days of the receipt of the bees, notify the Provincial Apiarist that the bees have been received. 1954, c. 4, s. 18.

Bees
obtained
outside
Ontario

18. No person shall spray or dust fruit trees during the period within which the trees are in bloom with a mixture containing any poisonous substance injurious to bees unless almost all the blossoms have fallen from the trees. 1954, c. 4, s. 19.

Spraying of
fruit trees

19.—(1) No hives containing bees shall be placed or left within thirty feet of a highway, dwelling or cultivated field.

Location
of hives

Exception (2) Subsection 1 does not apply to hives placed or left on lands where the lands are separated from the highway, dwelling or cultivated field by a hedge or solid fence at least seven feet in height and extending at least fifteen feet from the hives in both directions. 1954, c. 4, s. 20.

Transporting of used containers **20.** No person shall sell, transport or ship within Ontario any used honey container that has not been properly cleansed. 1954, c. 4, s. 21.

Certificate of registration **21.**—(1) No person shall keep bees in Ontario without a certificate of registration from the Provincial Apiarist.

Application (2) Every application for a certificate of registration shall be made to the Provincial Apiarist, accompanied by the prescribed fee.

Expiry (3) Every certificate of registration expires on the 31st day of May in each year. 1954, c. 4, s. 22.

Bees-wax refuse and used honey-combs **22.** No person shall buy, sell or transport bees-wax refuse or used honeycombs between the 1st day of April and the 1st day of December in any year without a permit from the Provincial Apiarist. 1954, c. 4, s. 23.

Records and returns **23.** Every bee-keeper and every person who sells bees shall,

(a) keep such books and records as the regulations prescribe; and

(b) make such returns in such manner and at such times as the regulations prescribe. 1954, c. 4, s. 24.

Offence **24.** Every person who contravenes any provision of this Act or the regulations or any order of the Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$25 and not more than \$100 or to imprisonment for a term of not more than thirty days for any subsequent offence. 1954, c. 4, s. 25.

Regulations **25.** The Lieutenant Governor in Council may make regulations,

(a) prescribing the fees that shall be paid for a certificate of registration;

- (b) providing for the keeping of a register of bee-keepers;
 - (c) prescribing the books and records that shall be kept by bee-keepers and by persons who sell bees or package bees;
 - (d) prescribing the returns that shall be made to the Provincial Apiarist by bee-keepers and by persons who sell bees or package bees;
 - (e) requiring and prescribing the reports that shall be made to the Provincial Apiarist by inspectors;
 - (f) designating any area in Ontario as a queen bee breeding area and regulating the keeping of bees in such area;
 - (g) designating any disease of bees to be a disease within the meaning of this Act;
 - (h) prescribing forms and providing for their use;
 - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1954, c. 4, s. 26, *amended*.
-

CHAPTER 34

The Bills of Sale and Chattel Mortgages Act**1. In this Act,**Interpre-
tation

- (a) "actual and continued change of possession" means such change of possession as is open and reasonably sufficient to afford public notice thereof;
- (b) "creditors" includes creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, an assignee in insolvency or trustee in bankruptcy of a mortgagor or bargainor, the liquidator of a company in a winding up proceeding under the *Winding-up Act* (Canada), and an assignee for the general benefit of creditors, as well as creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of a sheriff or other officer; R.S.C. 1952,
c. 296
- (c) "debentures" includes debentures, debenture stock, notes, bonds or other securities that contain or are entitled to the benefit of a mortgage charge or floating charge on the personal assets of any company;
- (d) "mortgage" includes a conveyance intended to operate as a mortgage and any deed or instrument by which a charge or floating charge is created upon personal property; (*See also sections 19 and 20.*)
- (e) "rolling stock" means any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of a railway. R.S.O. 1950, c. 36, s. 1.

2. This Act does not apply to an assignment for the general benefit of creditors to which *The Assignments and Preferences Act* applies. R.S.O. 1950, c. 36, s. 2, *amended*. Assignment
for benefit
of creditors
excepted
R.S.O. 1960,
c. 25

3. This Act does not apply to mortgages of vessels registered under any Act in that behalf. R.S.O. 1950, c. 36, s. 3. Mortgages
of registered
vessels
excepted

Registration
of mortgages
of goods
not attended
with change
of possession

4. Every mortgage of goods and chattels in Ontario that is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged shall be registered as provided in this Act, together with,

- (a) the affidavit of an attesting witness thereto of the due execution of such mortgage, which affidavit shall also state the date of the execution of the mortgage; and
- (b) the affidavit of the mortgagee that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him or, in cases falling within section 5, the affidavit therein prescribed. R.S.O. 1950, c. 36, s. 4.

Mortgage,

5. Where a mortgage of goods and chattels is made,

to secure
future
advances or
endorse-
ments

- (a) to secure the mortgagee for advances made in pursuance of an agreement in writing to make future advances for the purpose of enabling the borrower to enter into or to carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement; or

to secure
against
liability
as surety

- (b) to secure the mortgagee against the endorsement of any bill of exchange or promissory note or other liability by him incurred for the mortgagor, such liability not extending for a longer time than one year from the date of the mortgage,

the affidavit of the mortgagee shall state that the mortgage truly sets forth the agreement and truly states the extent and amount of the advances intended to be made or liability intended to be created by the agreement and covered by the mortgage, and that the mortgage is entered into in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the liability intended to be created, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the

creditors of the mortgagor nor to prevent such creditors from recovering any claims that they may have against the mortgagor. R.S.O. 1950, c. 36, s. 5.

6. If for any reason it is shown to be necessary or expedient, ^{When verified copy may be registered} the county judge may permit a copy verified by affidavit to be registered in lieu of the original mortgage. R.S.O. 1950, c. 36, s. 6.

7. If the mortgage and affidavits are not registered as by ^{Effect of non-registration} this Act provided, the mortgage is absolutely null and void as against creditors of the mortgagor and as against subsequent purchasers or mortgagees in good faith for valuable consideration. R.S.O. 1950, c. 36, s. 7.

8. Every sale of goods and chattels, not accompanied by ^{Requirements of sale of goods not attended with delivery} an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under this Act, and such conveyance, accompanied by an affidavit of an attesting witness thereto of the due execution of the conveyance and an affidavit of the bargainee that the sale is *bona fide* and for good consideration, as set forth in the conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, shall be registered as hereinafter provided; otherwise the sale is absolutely null and void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. R.S.O. 1950, c. 36, s. 8.

9. A mortgage or conveyance is not invalidated by reason ^{When defects not to invalidate} only of clerical errors or omissions therein or in the affidavits of execution and *bona fides* unless such errors or omissions are calculated to mislead or deceive or have the effect of misleading or deceiving. R.S.O. 1950, c. 36, s. 9.

10. Where a mortgage or conveyance is not duly registered ^{Registration after statutory period} within the time prescribed by this Act, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit, or affidavits, that the failure to register arose from misadventure, ignorance or some other cause that constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the mortgage or conveyance shall, as against creditors of the mortgagor, or as against subsequent purchasers or mortgagees in good faith for valuable consideration, be deemed to have been executed and to be effective only from the date of registration. R.S.O. 1950, c. 36, s. 10.

Where
Crown
mortgagee

11. Where the Crown is mortgagee or bargainee, the provisions of this Act as to an affidavit of *bona fides* do not apply. R.S.O. 1950, c. 36, s. 11.

When
mortgage to
take effect

12. Every such mortgage or conveyance operates and takes effect upon, from and after the day and time of the execution thereof. R.S.O. 1950, c. 36, s. 12.

Manner of
describing
property in
mortgages,
etc.

13. Every mortgage and every conveyance or agreement required to be registered under this Act shall contain such sufficient and full description of the goods and chattels that they may be thereby readily and easily known and distinguished. R.S.O. 1950, c. 36, s. 13.

Mortgages,
etc., of
goods not in
possession of
mortgagor or
intended for
future
delivery

14. This Act extends to a mortgage or sale of goods and chattels that may not be the property of or in the possession, custody or control of the mortgagor or bargainor or any person on his behalf at the time of the making of the mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that they may not at the time of the making of the mortgage or sale be actually procured or provided or fit or ready for delivery, or that some act may be required for the making or completing of such goods and chattels or rendering them fit for delivery. R.S.O. 1950, c. 36, s. 14.

Who may
make affi-
davits of
bona fides
and on
renewal of
mortgage

15.—(1) Every affidavit of *bona fides* required by this Act and every affidavit required upon the renewal of a chattel mortgage may be made by one of two or more bargainees or mortgagees, or by his or their agent if aware of all the circumstances and properly authorized in writing to take the conveyance or to take or renew the mortgage, or in the case provided for by section 5, to make the agreement and to take the mortgage.

In the case
of a
corporation

(2) If the mortgage or conveyance is made to a corporation, the affidavit may be made by the president, vice-president, manager, assistant manager, secretary, or treasurer, or by any other officer or agent thereof authorized to do so by resolution of the directors.

Affidavits
made by
agents or
officers

(3) Where the affidavit is made by the agent of the mortgagee or bargainee, or by an officer or agent of a corporation, it shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance and has personal knowledge of the facts deposed to.

(4) If the mortgage or conveyance is made to a corporation having branches, agencies or offices opened pursuant to statutory authority, the affidavit may be made by the manager, assistant manager or accountant of any such branch, agency or office without being authorized so to do by resolution of the directors and the affidavit shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance and has personal knowledge of the facts deposed to. R.S.O. 1950, c. 36, s. 15.

Branch managers, etc., may make affidavit of *bona fides* or on renewal

16. The authority in writing referred to in section 15, or a copy of such authority, shall be attached to and filed with the mortgage or conveyance. R.S.O. 1950, c. 36, s. 16.

Agent's authority to be attached to mortgage

17. Any affidavit by this Act required to be made by the mortgagee or by the bargainee may in the case of his death be made by any of his next of kin or by his executor or administrator or, if the mortgage has been assigned, by his assignee. R.S.O. 1950, c. 36, s. 17.

Affidavit of executor, administrator, next of kin or assignee

18. An authority to take a conveyance or to take or renew a mortgage may be a general one to take all or any conveyances to the bargainee, or to take and renew all or any mortgages to the mortgagee. R.S.O. 1950, c. 36, s. 18.

General authority to take or renew mortgages

19. Every covenant, promise or agreement to make, execute or give a mortgage of goods and chattels shall be in writing, and shall be deemed to be a mortgage within the meaning of this Act. R.S.O. 1950, c. 36, s. 19.

Effect of contract to give a chattel mortgage

20. Every covenant, promise or agreement to make a sale of goods and chattels shall be in writing and shall be deemed to be a sale of goods and chattels within the meaning of this Act. R.S.O. 1950, c. 36, s. 20.

Effect of contract to make a sale

21.—(1) Except in the case of the Provisional County of Haliburton, the instruments mentioned in the preceding sections shall be registered in the office of the clerk of the county or district court of the county or district in which the property mortgaged or sold is at the time of the execution thereof.

Where instruments to be registered

(2) Where the property is situate in the Provisional County of Haliburton, the instrument shall be registered in the office of the clerk of the county court of the County of Victoria.

Haliburton

(3) In the case of a county the instrument shall be registered within five days from the execution thereof.

Limitation of time for registration

Haliburton
and
districts

(4) In the case of the Provisional County of Haliburton and of a district, the instrument shall be registered within ten days from the execution thereof.

Filing and
endorsing

(5) The clerk shall file the instrument and endorse thereon the time of receiving it.

Certificate of
registration

(6) The clerk shall give to the person registering an instrument a certificate of its registration if so requested.

Computation
of time for
registration

(7) Where there are more mortgagors or grantors than one, the time shall be computed from the execution of the instrument by the last mortgagor or grantor. R.S.O. 1950, c. 36, s. 21.

Procedure
when mort-
gaged goods
are removed

22. In the event of the permanent removal of the goods and chattels from the county, provisional county or district in which the goods and chattels were at the time of the execution of the mortgage to another county, provisional county or district before the payment and discharge of the mortgage, a copy of the mortgage and of the affidavits, documents, instruments and statements relating thereto, certified under the hand of the clerk in whose office it was registered, and under the seal of the court, shall be filed with the proper officer as mentioned in section 21, of the county, provisional county or district to which the goods and chattels are removed within two months from such removal, otherwise the mortgage is null and void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith for valuable consideration. R.S.O. 1950, c. 36, s. 22.

Manner of
registration

23. The clerk shall number every instrument or copy filed in his office, and shall enter in alphabetical order in a book to be provided by him the names of all the parties thereto, with the number endorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. R.S.O. 1950, c. 36, s. 23.

Renewal of
mortgages

24.—(1) Except as provided in subsection 2 and subject to section 28, every mortgage registered in pursuance of this Act ceases to be valid, as against the creditors of the person making it and as against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the registration thereof unless, within thirty days next preceding the expiration of such term of one year, a statement (Form 1), exhibiting the interest of the mortgagee, his executors, administrators or assigns in the mortgaged property, and showing the amount still due for principal and interest thereon, is registered in

the proper office, as mentioned in section 21, of the county, provisional county or district in which the mortgage was registered, with an affidavit of the mortgagee that the statement is true and that the mortgage has not been kept on foot for any fraudulent purpose. R.S.O. 1950, c. 36, s. 24 (1); 1954, c. 5, s. 1.

(2) Where there has been a permanent removal of the goods and chattels, as mentioned in section 22, and a certified copy of the mortgage has been registered as required by that section, the statement and affidavit shall be registered in the office in which the certified copy is registered, and the period of one year shall be reckoned from the date of the registration of the certified copy. Case of permanent removal of goods

(3) Where the two months mentioned in section 22 have not expired when the period of one year mentioned in subsection 1 expires, and a certified copy of the mortgage has not been registered as provided by section 22, the statement and affidavit may be registered in the office in which the mortgage was registered. Idem

(4) If any *bona fide* error or mistake is made in the statement, either by the omission to give any credit or by any miscalculation in the computation of interest or otherwise, the statement and the mortgage therein referred to are not invalidated if the mortgagee, his executors, administrators or assigns, within two weeks after the discovery of the error or mistake, registers an amended statement and affidavit referring to the former statement and clearly pointing out the error or mistake therein and correcting the same. Remedying error or mistake made in statement

(5) If before the registration of such amended statement and affidavit any creditor or purchaser or mortgagee in good faith for valuable consideration has made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or has incurred any costs in proceedings taken on the faith of the amount due on the mortgage being as stated in the renewal statement and affidavit as first registered, the mortgage, as to the amount so advanced or the valuable consideration given or costs incurred by such creditor, purchaser or mortgagee, is, as against such creditor, purchaser or mortgagee, good only for the amount mentioned in the renewal statement and affidavit first registered. Advances made in good faith protected

(6) The statement and affidavit shall be deemed one instrument and shall be registered and entered as provided by section 23. Manner of registering

Annual
registration
of renewals

(7) Another statement in accordance with subsection 1, verified as required by that subsection, shall be registered in the proper office according to section 21 or subsection 2 of this section, as the case may be, within thirty days next preceding the expiration of one year from the day of the registration of the statement required by subsection 1, otherwise the mortgage ceases to be valid as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another verified statement shall be registered within thirty days next preceding the expiration of one year from the day of the registration of the former statement, otherwise the mortgage ceases to be valid as aforesaid.

By whom
affidavits on
renewals
may be
made

(8) If the affidavit is made by an assignee, or by any of his next of kin, or by his executor or administrator, the assignment or the several assignments through which he claims shall be registered with the statement and affidavit, unless they have been already registered.

Assignment
for benefit
of creditors
excepted
R.S.O. 1960,
c. 25

(9) Subsection 8 does not apply to an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or any other Act of Ontario or of Canada relating to assignments for the benefit of creditors, if the assignment is referred to in the statement and notice thereof has been given in manner required by law.

Affidavit by
trustee in
bankruptcy

(10) Where a mortgagee has become bankrupt, the affidavit may be made by the trustee in bankruptcy who shall report to the court upon knowledge, information and belief.

Registration
of renewals
after
statutory
period

(11) Where a statement of renewal is not duly registered within the time prescribed by this section, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit, or affidavits, that the failure to register arose from misadventure, ignorance or some other cause that constitutes a reasonable excuse, and that the parties have acted and are acting in good faith, but in such case the renewal statement shall, as against creditors of the mortgagor or as against subsequent purchasers or mortgagees in good faith for valuable consideration who have purchased or have given credit after the expiry of the mortgage but before registration, be deemed to have been executed and to be effective only from the date of registration, and, for the purposes of registration of any further statement of renewal, such statement of renewal shall be deemed to have been registered upon the actual date of registration. R.S.O. 1950, c. 36, s. 24 (2-11).

25. Where a new county or district is formed or territory is added to a county or district, every mortgage that under this Act would otherwise require to be renewed in the county or district of which the territory forming or added to the new county or district was part shall be renewed in the office of the proper officer of the county or district so formed or to which such territory is added, and upon such renewal a copy of the mortgage, certified under the hand of the officer in whose office it was registered and the seal of the court, shall be registered with the renewal statement and affidavit. R.S.O. 1950, c. 36, s. 25.

Mortgages where county or district boundaries altered

26. Sections 24 and 25 do not apply where the mortgage is made to the Crown. R.S.O. 1950, c. 36, s. 26.

Crown not affected

27. A mortgage or sale declared by this Act to be void or that under section 24 has ceased to be valid as against creditors and subsequent purchasers or mortgagees shall not by the subsequent taking of possession of the goods and chattels mortgaged or sold by the mortgagee or bargainee be thereby made valid as against persons who became creditors, purchasers or mortgagees before such taking of possession. R.S.O. 1950, c. 36, s. 27.

When subsequent possession not to validate mortgage or sale otherwise void

28.—(1) In the case of a mortgage of goods and chattels made by a corporation to a bondholder or to a trustee for the purpose of securing the bonds or debentures of the corporation, it is sufficient if the affidavit of *bona fides* is to the effect that the mortgage was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them.

Affidavits of *bona fides* where mortgage given by corporation to secure bonds or debentures

(2) Where the head office of the corporation is not within Ontario, the mortgage may be registered within thirty days instead of five days, as provided by section 21. R.S.O. 1950, c. 36, s. 28 (1, 2).

Where head office not in Ontario

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 24 by the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the mortgage, and showing the amount of the bond or debenture debt that it was made to secure, and showing the extent or amount of the liability still secured by the mortgage, together with an affidavit of the person

Renewal of mortgages

making such statement that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by section 24. R.S.O. 1950, c. 36, s. 28 (3); 1954, c. 5, s. 2.

Renewal of
mortgages
given to
secure
debentures
of
corporations

(4) Where the mortgage is made as a security for bonds or debentures and the by-law authorizing the issue of the bonds or debentures as a security for which the mortgage was made, or a copy thereof certified under the hand of the president or vice-president and secretary of the corporation and verified by an affidavit thereto attached or endorsed thereon and having the corporate seal attached thereto, is registered with the mortgage, it is not necessary to renew the mortgage, but it shall in such case continue to be as valid as if it had been duly renewed as in this Act provided. R.S.O. 1950, c. 36, s. 28 (4).

Mortgage of
rolling stock

29.—(1) In the case of a mortgage securing bonds made by a corporation on rolling stock owned by it, it is sufficient for the purposes of this Act if the mortgage or a copy thereof and the affidavit, referred to in subsection 1 of section 28, is filed in the office of the Provincial Secretary within the time limited by this Act for registering a mortgage to secure bonds or debentures of a corporation.

Where
renewals
to be filed

(2) The office of the Provincial Secretary is the place for filing the renewal statements of any such mortgage of rolling stock where renewal thereof is necessary under this Act. R.S.O. 1950, c. 36, s. 29.

Mortgage to
secure bonds,
etc., on
leased roll-
ing stock

30.—(1) In the case of a mortgage, hypothec or other instrument made by a corporation securing bonds, debentures, notes or other securities on any rolling stock that is subject to any lease, conditional sale or bailment to a railway corporation, it or a copy thereof may be filed in the office of the Provincial Secretary within twenty-one days from the execution thereof, and if so filed is as valid as against creditors of such corporation and subsequent purchasers as if it had been registered pursuant to this Act.

Notice in
Gazette

(2) Notice of the filing shall forthwith thereafter be given in *The Ontario Gazette*.

Application
of ss. 28, 30
R.S.O. 1960,
c. 70

(3) Sections 28 and 29 and this section do not apply to any instrument registered under *The Corporation Securities Registration Act*. R.S.O. 1950, c. 36, s. 30.

31. A copy of any instrument or document registered under this Act and of any endorsement thereon certified under the hand of the officer with whom it is registered and under the seal of the court, or where it is filed in the office of the Provincial Secretary under the hand of the Provincial Secretary or Deputy Provincial Secretary, shall be received as evidence by all courts that the instrument or document was received and registered or filed according to the endorsement thereon. R.S.O. 1950, c. 36, s. 31. ^{Proof of registration}

32. A mortgage registered under this Act may be discharged by registering in the office in which the mortgage is registered a certificate (Form 2), signed by the mortgagee, his executors, administrators or assigns. R.S.O. 1950, c. 36, s. 32. ^{Discharge}

33.—(1) The officer with whom the mortgage is registered upon receiving such certificate, proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 23, or where otherwise in such book the mortgage has been entered, write the words "Discharged by Certificate No. (*stating the number of the certificate*)", and to such entry the officer shall subscribe his name, and he shall also endorse the fact of the discharge upon the instrument discharged, and shall subscribe his name to the endorsement. ^{Entering certificates of discharge}

(2) Where a mortgage has been renewed under section 24, the endorsement or entries required by subsection 1 need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in such book. ^{Entries of renewal}

(3) A certificate of discharge by an assignee shall not be registered unless the assignment is registered. ^{When to be registered}

(4) The assignment shall, upon proof by the affidavit of a subscribing witness, be registered, numbered and entered in such book in the same manner as a mortgage. R.S.O. 1950, c. 36, s. 33. ^{Entry of assignment of mortgages}

34.—(1) Every person shall, on payment of the proper fees, have access to and be entitled to inspect the books containing records or entries of mortgages, conveyances or assignments registered. ^{Inspection of books recording instruments}

(2) A person desiring such access or inspection shall not be required, as a condition to his right thereto, to furnish the names of the persons in respect of whom such access or inspection is sought. ^{Idem}

Production
of
instruments

(3) The clerk shall, upon demand, produce for inspection any such mortgage, conveyance, assignment or copy thereof registered in his office. R.S.O. 1950, c. 36, s. 34.

Schedule
of fees

35. For services under this Act the officers are entitled to the following fees:

1. For registering an instrument or a copy thereof or a renewal statement or an assignment or a certificate of discharge..... \$1.00
2. For a search..... .50
3. For a certificate of registration of an instrument..... .50
4. For copies of an instrument or document and certifying it, for every 100 words..... .20
5. For production and inspection of an instrument or document..... .10

R.S.O. 1950, c. 36, s. 36; 1953, c. 8, s. 1.

FORM 1

(Section 24)

RENEWAL STATEMENT

Statement exhibiting the interest of..... in the property mentioned in the mortgage dated the..... day of....., 19....., made between..... of..... and..... of..... and registered in the office of the Clerk of the..... Court of the..... of....., on the..... day of....., 19....., and of the amount due for principal and interest thereon.

The said..... is still the mortgagee of the property and has not assigned the mortgage (*or*..... is the assignee of the mortgage by virtue of an assignment thereof from..... to him dated the..... day of....., 19.....) (*or as the case may be*).

The amount still due for principal and interest on the mortgage is \$.....

A.B.

(Signature of Mortgagee or Assignee)

County (*or* District) of..... }
To wit,

I,..... of the..... of..... in the..... of..... the mortgagee named in the mortgage mentioned in the foregoing (*or* annexed) statement (*or* assignee of the mortgagee named in the mortgage mentioned in the foregoing [*or* annexed] statement) (*as the case may be*), make oath and say:

1. That the foregoing (*or* annexed) statement is true.

2. That the mortgage mentioned in the statement has not been kept on foot for any fraudulent purpose.

A.B.

Sworn before me, etc.

R.S.O. 1950, c. 36, Form 1; 1954, c. 5, s. 3.

FORM 2

(Section 32)

DISCHARGE OF MORTGAGE

To the Clerk of the Court of the of

I, of do certify that has satisfied all money due or to grow due on a certain mortgage made by to , which mortgage bears date the day of , 19....., and was registered (*or in case the mortgage has been renewed* was last renewed), in the office of the Clerk of the Court of the of on the day of , 19....., as No.
(*here mention the date of registration of each assignment thereof and the names of the parties, or mention that the mortgage has not been assigned, as the fact may be*); and that I am the person entitled by law to receive the money; and that the mortgage is therefore discharged.

Witness my hand this day of , 19.....

Witness

C.D.

A.B.

(*Signature of Mortgagee or Assignee*)

R.S.O. 1950, c. 36, Form 2.

CHAPTER 35

The Blind Persons' Allowances Act**1.** In this Act,Interpre-
tation

(a) "allowance" means a blind person's allowance provided under this Act and the regulations to the persons and under the conditions specified in any agreement made under section 2;

(b) "Director" means the Director of the Welfare Allowances Branch of the Department of Public Welfare;

(c) "investigator" means an investigator within the meaning of *The Old Age Assistance Act*;

R.S.O. 1960,
c. 267

(d) "local authority" means a local authority within the meaning of *The Old Age Assistance Act*;

(e) "Minister" means the Minister of Public Welfare;

(f) "recipient" means a person to whom an allowance is granted;

(g) "regulations" means the regulations made under this Act. 1951 (2nd Sess.), c. 1, s. 1; 1957, c. 4, s. 1; 1958, c. 6, s. 1.

2.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada to provide for payment by Canada to Ontario in accordance with the *Blind Persons Act* (Canada) and the regulations made under it of any portion of amounts of allowances paid by Ontario pursuant to this Act and the regulations.

Agreements
with Canada
authorizedR.S.C. 1952,
c. 17

(2) Allowances may be paid in accordance with any agreement made under subsection 1. 1957, c. 4, s. 2.

Payment
authorized**3.** It is the duty of the Director,Director,
duties

(a) to receive applications for allowances; and

- (b) to determine the eligibility of each applicant for an allowance and, where the applicant is eligible, to determine the amount thereof and to direct payment accordingly. 1951 (2nd Sess.), c. 1, s. 3 (1).

Allowances
exempt from
taxation

4.—(1) An allowance is exempt from provincial and municipal taxes.

Allowances
not
assignable

(2) An allowance is not subject to alienation or transfer by the recipient.

Allowances
not subject
to seizure,
etc.

(3) An allowance is not subject to attachment or seizure in satisfaction of any claim against the recipient. 1951 (2nd Sess.), c. 1, s. 4.

Voting
rights

5. The receipt of an allowance does not by itself constitute a disqualification of the recipient from voting at any provincial or municipal election. 1951 (2nd Sess.), c. 1, s. 5.

When an
allowance
may be paid
to a trustee

6.—(1) In the case of a recipient,

(a) for whom a committee or trustee is acting; or

(b) who, in the opinion of the Director, is using or is likely to use the allowance otherwise than for his own benefit, or is incapacitated or is incapable of handling his affairs,

the Director may appoint a person to act for the recipient and the allowance may be paid for the benefit of the recipient to the committee or trustee mentioned in clause *a* or to the person appointed under clause *b*.

Compensa-
tion

(2) A person acting for a recipient under subsection 1 is not entitled to any fee or other compensation or reward or to any reimbursement for any costs or expenses incurred by him. 1955, c. 5, s. 2.

Refusal of
Canada to
contribute

7. Where an allowance has been paid and the Government of Canada,

(a) refuses to pay any amount in respect thereof; or

(b) rules that overpayments have been made to the recipient,

the Lieutenant Governor in Council may direct that all payments which at that time have been made shall be deemed to be expenses incurred in the administration of this Act. 1951 (2nd Sess.), c. 1, s. 7.

8. If for any reason the Government of Canada ceases to make the contributions provided for under the *Blind Persons Act* (Canada) or fails to carry out the agreement made under the authority of this Act, all allowances under this Act shall thereafter cease and no further payment of allowances shall be made. 1951 (2nd Sess.), c. 1, s. 8.

When payment of allowances to cease
R.S.C. 1952, c. 17

9. Allowances and the expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1951 (2nd Sess.), c. 1, s. 9 (1).

Funds for purposes of Act

10.—(1) No person shall knowingly obtain or receive an allowance that he is not entitled to obtain or receive under this Act and the regulations.

Offences

(2) No person shall knowingly aid or abet another person to obtain or receive an allowance that such other person is not entitled to obtain or receive under this Act and the regulations.

Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than three months, or to both. 1951 (2nd Sess.), c. 1, s. 10.

Idem

11. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) governing the manner of making application for an allowance;
- (b) providing for the suspension and cancellation of allowances;
- (c) providing for the whole or part of the cost of providing medical and dental services to recipients or any class or group thereof;
- (d) prescribing the powers and duties of investigators;
- (e) prescribing the powers and duties of local authorities;
- (f) providing for the making of investigations respecting persons to whom allowances may be paid or by whom or on whose behalf application has been made for an allowance or who are in receipt of an allowance;

- (g) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before an allowance is paid;
 - (h) fixing the intervals at which and the manner in which allowances are to be paid;
 - (i) prescribing forms and providing for their use;
 - (j) respecting any matter necessary or advisable to carry out effectively the purposes of this Act 1951 (2nd Sess.), c. 1, s. 11; 1957, c. 4, s. 3, *amended*
-

CHAPTER 36

The Blind Workmen's Compensation Act

1. In this Act,

- (a) "blind workman" means a workman as defined by *The Workmen's Compensation Act* who has a central visual acuity in his better eye reading 6-60 or 20-200 or less; ^{Interpretation R.S.O. 1960, c. 437}
- (b) "Board" means The Workmen's Compensation Board;
- (c) "Department" means the Department of the Provincial Treasurer;
- (d) "employer" means an employer as defined by *The Workmen's Compensation Act* who has in his employ a blind workman;
- (e) "full cost of compensation" means the compensation, burial expenses, cost of furnishing medical aid and all other amounts payable under or by virtue of Part I of *The Workmen's Compensation Act* by reason of a blind workman meeting with an accident for which he would be entitled to compensation under such Act, and includes the capitalized sum or present value of the sum required as determined by the Board to provide for future payments of compensation to the pensioner or his dependants;
- (f) "Institute" means The Canadian National Institute for the Blind. R.S.O. 1950, c. 37, s. 1.

2. Where the full cost of compensation exceeds \$50, the Department shall, in the case of industries coming under Schedule 1 of the regulations under *The Workmen's Compensation Act*, pay the compensation to the Board by way of reimbursement to the accident fund as defined by such Act, and, in the case of industries coming under Schedule 2, pay the compensation to the employer, such payment or payments to be made out of the Consolidated Revenue Fund upon receiving from the Board a certificate of the full cost of compensation, which certificate may be accepted by the Department without further proof. R.S.O. 1950, c. 37, s. 2.

Prior
awards

R.S.O. 1960,
c. 437

3. In making any award to a blind workman for injury by accident under *The Workmen's Compensation Act*, the Board may have regard to any previous awards made to him for injury under such Act. R.S.O. 1950, c. 37, s. 3.

Assessments

4. The assessment on an employer to be levied by the Board on the wages of a blind workman may be fixed by the Board at such an amount as may be deemed fair, having regard to *The Workmen's Compensation Act*. R.S.O. 1950, c. 37, s. 4.

Proper
placement

5.—(1) Subject to subsection 2, the Institute has exclusive jurisdiction as to the nature of the work a blind workman shall do and as to the proper placement of such workman.

Assignment
of powers
and duties
of the
Institute

(2) Upon the recommendation of the Board, the Lieutenant Governor in Council may designate any other organization or institution to execute the powers and perform the duties assigned to the Institute under this Act and thereupon this Act shall be read as though the name of the organization or institution was substituted for the Institute. R.S.O. 1950, c. 37, s. 5.

Waiver of
rights in
case of
improper
placement

6. An employer giving employment to a blind workman without the consent or approval of the Institute, or changing the nature of such employment once approved by the Institute without the consent or approval of the Institute, shall be deemed to have waived all right to the benefit of this Act in respect to injury to such blind workman. R.S.O. 1950, c. 37, s. 6.

Access to
blind
workman

7. Officers of the Institute shall have access at all times to the place of employment of a blind workman with the knowledge and consent of the superintendent or foreman. R.S.O. 1950, c. 37, s. 7.

Certificates
or other
requisitions

8. The Institute shall provide the Board, upon request, with all such certificates or other material as may be required by the Board in the fulfilment of its duties. R.S.O. 1950, c. 37, s. 8.

CHAPTER 37

The Boilers and Pressure Vessels Act

1. In this Act,

Interpre-
tation

1. “boiler”,
 - i. except when used in respect of the approval and registration of designs of boilers, means a vessel in which gas or vapour may be generated or liquid may be put under pressure by heating and includes any pipe, fitting and other equipment attached thereto or used in connection therewith,
 - ii. when used in respect of the approval and registration of designs, means a vessel in which gas or vapour may be generated or liquid may be put under pressure by heating;
2. “certificate of approval” means a certificate issued under this Act for a boiler or pressure vessel not inspected during construction;
3. “certificate of competency” means a certificate issued under this Act to a person qualified to inspect boilers or pressure vessels, and includes a renewal thereof;
4. “certificate of inspection” means a certificate issued under this Act in respect of any inspection of a boiler or pressure vessel and includes a certificate issued by an insurer;
5. “chief engineer” means an operating engineer who holds a certificate of qualification under *The Operating Engineers Act* and is responsible for and supervises the operation of a plant; R.S.O. 1960,
c. 282
6. “chief inspector” means the chief inspector designated under this Act;
7. “closed type hot water heating system” means a system in which water is heated and circulated and that is not vented to the atmosphere;

8. "compressed gas" means any gas contained under a pressure of more than fifteen pounds whether it is in a gaseous or liquid state;
9. "Department" means the Department of Labour;
10. "design", in reference to a boiler, pressure vessel or plant, means its plan or pattern and includes drawings, specifications and any available model;
11. "design pressure" means the pressure that a vessel is designed to withstand;
12. "fitting" means a safety valve, stop valve, automatic stop-and-check valve, blow-down valve, reducing valve, water gauge, gauge cock, pressure gauge, injector, test cock, fusible plug, regulating and controlling device, and pipe fittings, attached to or used in connection with a boiler, pressure vessel or plant;
13. "high pressure boiler" means a boiler designed to carry a working pressure of more than fifteen pounds;
14. "inspector" means an inspector appointed under this Act and includes the chief inspector;
15. "insurer" means a person licensed under *The Insurance Act* to undertake boiler and machinery insurance as defined by that Act;
16. "low pressure boiler" means,
 - i. a boiler in which gas or vapour is generated designed to carry a working pressure of 15 pounds or less, or
 - ii. a boiler in which liquid is heated designed to carry a working pressure of 160 pounds or less, or
 - iii. a boiler connected in a closed type hot water heating system;
17. "major repairs" means repairs upon which the strength of a boiler or pressure vessel will depend;
18. "Minister" means the Minister of Labour;

19. "open type hot water heating system" means a system in which water is heated and circulated and where there are no intervening valves between the boiler and the expansion tank and that is vented to the atmosphere;
20. "owner" means the person, firm, corporation or association for the time being in possession of any boiler, pressure vessel or plant;
21. "plant" means the installation of boilers as defined in subparagraph 1 of paragraph 1, or pressure vessels as defined in subparagraph 1 of paragraph 23, in operation or use as a unit for any purpose;
22. "pressure" means pressure in pounds per square inch measured by a pressure gauge;
23. "pressure vessel",
 - i. except when used in respect of the approval and registration of designs of pressure vessels, means an unfired vessel or apparatus, other than a boiler, that may be used for containing, storing, distributing, transferring, distilling, processing or otherwise handling any gas, vapour or liquid under pressure, and includes any pipe fitting and other equipment attached thereto or used in connection therewith,
 - ii. when used in respect of the approval and registration of designs of pressure vessels, means an unfired vessel or apparatus, other than a boiler, that may be used for containing, storing, distributing, transferring, distilling, processing or otherwise handling any gas, vapour or liquid under pressure;
24. "refrigerant" means a substance used to produce refrigeration by its expansion or vaporization;
25. "refrigeration plant" means the installation of pressure vessels by which refrigerants are vaporized, compressed and liquified in their refrigerating cycle;
26. "regulations" means the regulations made under this Act;

R.S.O. 1960,
c. 282

27. "shift engineer" means an operating engineer who holds a certificate of qualification under *The Operating Engineers Act* and who is on duty in a plant;
28. "used boiler or used pressure vessel" means a boiler or pressure vessel that has been sold or exchanged and has been removed from its original site of installation and operation for re-use;
29. "welding operator" means a person engaged in welding either on his own account or in the employ of another person on the fabrication or repair of boilers or pressure vessels or any parts thereof;
30. "working pressure" means the pressure at which a vessel is permitted to be used or operated under this Act. 1951, c. 7, s. 1; 1953, c. 9, s. 1.

Exemptions
from Act

2.—(1) This Act does not apply to,

R.S.C. 1952,
c. 29

- (a) a boiler situate in and used only to heat a building or structure that normally provides separate dwelling accommodations for not more than four families;
- (b) a boiler used in connection with an open type hot water heating system;
- (c) a boiler or pressure vessel operated by a railway and subject to inspection by The Board of Transport Commissioners for Canada or a boiler or pressure vessel subject to the *Canada Shipping Act*;
- (d) a shipping container subject to inspection by The Board of Transport Commissioners for Canada;
- (e) a low pressure boiler having a heating surface of thirty square feet or less;
- (f) a boiler or pressure vessel used exclusively for agricultural purposes;
- (g) a pressure vessel for permanent use at a pressure of fifteen pounds or less;
- (h) a pressure vessel having an internal diameter of six inches or less;

- (i) a pressure vessel having an internal diameter of twenty-four inches or less used for the storage of hot water for domestic use;
- (j) a pressure vessel used exclusively for hydraulic purposes at atmospheric temperature;
- (k) a pressure vessel having an internal diameter of twenty-four inches or less connected in a water pumping system containing air that is compressed to serve as a cushion;
- (l) a refrigeration plant having a capacity of three tons or less of refrigeration in twenty-four hours.

(2) The Lieutenant Governor in Council may exempt any type of boiler or pressure vessel or any plant from this Act ^{Exemption by Lieutenant Governor in Council} and may from time to time vary or revoke any such exemption. 1951, c. 7, s. 2.

3.—(1) The Minister may divide Ontario into districts for ^{Districts} inspection purposes and assign one or more inspectors to each district.

(2) The Minister may alter the boundaries of any district ^{Idem} or make a new division at any time. 1951, c. 7, s. 3.

4.—(1) The Lieutenant Governor in Council may appoint ^{Inspectors, appointment} inspectors to inspect boilers, pressure vessels and plants under this Act, and may designate one of them to be the chief inspector.

(2) No person shall be appointed or act as an inspector who ^{Inspectors not to have interest in sale, etc., of boilers} has any direct or indirect interest in the manufacture, sale or installation of boilers, pressure vessels or plants. 1951, c. 7, s. 4.

5.—(1) No person shall carry out an inspection of a boiler, pressure vessel or plant who does not hold a certificate of ^{Certificate of competency} competency. 1951, c. 7, s. 5 (1); 1953, c. 9, s. 2.

(2) Subject to the regulations, every applicant for a certificate of competency shall pass such ^{Examinations} examinations and tests as the Minister requires.

(3) The Minister may suspend or cancel any certificate of ^{Suspension and cancellation} competency for such reasons as are prescribed by the regulations. 1951, c. 7, s. 5 (2, 3).

Duties of inspectors

6. The inspectors shall perform such duties under the direction of the chief inspector as are assigned to them by this Act and the regulations and by the Minister. 1951, c. 7, s. 6.

Power to enter buildings and premises

7. An inspector in the course of his duties may enter any building or premises where he has reason to believe that a boiler, pressure vessel or plant is being installed or operated. 1951, c. 7, s. 7.

Power to require attendance and examine under oath

8. An inspector may by notice in writing require the attendance before him of any person at the time and place named in the notice and examine such person under oath regarding any matter pertaining to the construction, installation, operation, maintenance and repair of a boiler, pressure vessel or plant, or in respect of an accident arising out of its use or operation. 1951, c. 7, s. 8.

Powers and duties of inspectors on annual inspection

9. On every annual inspection an inspector,

- (a) shall satisfy himself that the boiler, pressure vessel or plant is being operated and maintained in accordance with this Act and the regulations and that the safety valves are properly set and sealed; and
- (b) shall review the maximum working pressure of the boiler or pressure vessel and make any reduction in it for safe operation or use having regard to its age and condition. 1951, c. 7, s. 9.

Power to require owner, etc., to prepare boiler for inspection, etc.

10. An inspector may require, by notice in writing, the owner, chief engineer, shift engineer or other person responsible for or in immediate charge of a boiler, pressure vessel or plant, to prepare it or any part thereof, in accordance with the notice, for internal or external inspection or test or for such other purposes as the inspector deems necessary. 1951, c. 7, s. 10.

Power to require owner, etc., to do things necessary for proper inspection

11. An inspector may require the owner, chief engineer or other person responsible for or in charge of a boiler, pressure vessel or plant,

- (a) to prepare any boiler, pressure vessel or plant for inspection in such manner as the inspector requires and to supply water for and to assist in making any test;
- (b) to cut or drill holes in a boiler or pressure vessel or to use any other method to enable the inspector

to determine the thickness and condition of the plates;

- (c) to steam up, put under pressure or otherwise put into operation a boiler, pressure vessel or plant so that the inspector may test the safety valves or any part of the installation under operating conditions;
- (d) to extinguish the fire in a boiler or to reduce the pressure upon a boiler or pressure vessel to zero immediately if the inspector has reason to believe that it is in an unsafe condition; and
- (e) to do any other thing the inspector deems necessary to ensure a proper inspection. 1951, c. 7, s. 11.

12.—(1) An inspector may give instructions orally or in writing to the owner, chief engineer, shift engineer or other person responsible for or in immediate charge of a boiler, pressure vessel or plant on any matter pertaining to safety with regard to the installation, operation, care, maintenance or repair thereof and require that his instructions be carried out within such time as the inspector specifies.

Instructions
by inspector
re installa-
tion,
operation
etc.

(2) If the owner, chief engineer, shift engineer or other person responsible for or in immediate charge of a boiler, pressure vessel or plant fails to comply with any instructions given by an inspector, the inspector shall forthwith report the circumstances to the chief inspector who may order that the boiler, pressure vessel or plant be shut down and may cancel the certificate of inspection or the certificate of approval. 1951, c. 7, s. 12.

Refusal of
owner, etc.,
to obey
instructions
of inspector

13.—(1) Where in the opinion of an inspector a boiler, pressure vessel or plant or any part thereof is in an unsafe operating condition or is being operated in a dangerous manner, the inspector on the instructions of the chief inspector shall seal the boiler or pressure vessel and take such steps as may be necessary to remove the danger, and the chief inspector may cancel the certificate of inspection or the certificate of approval.

Where boiler,
etc., unsafe

(2) No person shall operate a boiler pressure vessel that has been sealed, or cause or permit it to be operated, or destroy, remove or tamper with the seal of the inspector until permission in writing has been obtained from the chief inspector. 1951, c. 7, s. 13.

Prohibition
re operation
of sealed
plant, etc.

Design of
boilers, etc.

14.—(1) Where a boiler, pressure vessel or fitting is to be constructed for use in Ontario, the manufacturer shall submit its design to the chief inspector for approval and registration in the Department before commencing its construction. 1951, c. 7, s. 14 (1); 1953, c. 9, s. 3 (1).

Design of
plant

(2) Where a plant is to be installed in Ontario, its design shall be submitted to the chief inspector for approval and registration in the Department before commencing its installation. 1951, c. 7, s. 14 (2).

Where design
not approved
before
construction

(3) Where a boiler, pressure vessel or fitting has been constructed without its design having been approved and registered, the chief inspector may accept its design for approval and registration if it otherwise meets with the requirements of this Act and the regulations. 1951, c. 7, s. 14 (3); 1953, c. 9, s. 3 (2).

Inspection
during
construction

15.—(1) The chief inspector may require the inspection,

(a) of a boiler or pressure vessel at any stage during its construction; and

(b) of the installation of a boiler, pressure vessel or plant.

Issue of
certificate of
inspection

(2) Where a boiler or pressure vessel has been inspected during construction or installation, the inspector shall report thereon to the chief inspector who, if satisfied that it may be operated or used safely, may issue a certificate of inspection upon payment of the prescribed fee and expenses. 1951, c. 7, s. 15.

Certificate of
approval

16. Where the chief inspector has not required the inspection of a boiler or pressure vessel during its construction, he may issue a certificate of approval therefor upon payment of the prescribed fee, and the certificate, subject to the other provisions of this Act, authorizes the operation of the boiler or pressure vessel until its annual inspection, unless it is sooner cancelled. 1951, c. 7, s. 16.

Where
design not
available

17. Where a new boiler or pressure vessel has been constructed and its design is not available for registration, the chief inspector may permit it to be installed and operated as a used boiler or pressure vessel and may issue a certificate of inspection therefor. 1951, c. 7, s. 17.

Boiler, etc.,
defective
after con-
struction

18. Notwithstanding the approval and registration of its design, if a boiler or pressure vessel is found to be defective after its construction, the chief inspector may permit the

boiler or pressure vessel to be operated or used within such limits of safety as he deems proper, and shall require the manufacturer to revise the design and specifications for such boiler or pressure vessel to correct its defects within such period as the chief inspector allows, and, failing revision or if the defects cannot in his opinion be remedied, the chief inspector shall cancel the registration of the design and no additional boiler or pressure vessel shall be constructed therefrom. 1951, c. 7, s. 18.

19. The maximum working pressure of a boiler or pressure vessel is its design pressure if it has met the requirements of the chief inspector as to design, workmanship, construction and installation. 1951, c. 7, s. 19.

20. Where a boiler or pressure vessel has not been constructed in conformity with its approved design but nevertheless may be used safely at a lesser pressure than its design pressure, the inspector making the inspection shall fix its maximum working pressure having regard to its condition and the purpose for which it is to be operated or used. 1951, c. 7, s. 20.

21.—(1) Subject to subsection 2, every boiler and pressure vessel shall have at least one safety-valve of adequate capacity set to relieve at or below the maximum working pressure of the boiler or pressure vessel.

(2) Where more than one pressure vessel is connected in a plant for use at a uniform maximum working pressure, they shall be protected by one or more safety-valves of adequate capacity set to relieve at or below the uniform maximum working pressure that shall not exceed the maximum working pressure of the weakest pressure vessel in the plant. 1951, c. 7, s. 21.

22. No boiler shall be operated or pressure vessel used at a pressure beyond its maximum working pressure. 1951, c. 7, s. 22.

23.—(1) Subject to subsection 2 of section 28, every boiler operated or pressure vessel used in Ontario shall be inspected by an inspector at least once annually.

(2) Following the annual inspection of a boiler or pressure vessel, the inspector shall make a report to the chief inspector on its condition and operation or use, and if the inspector is satisfied that a boiler or pressure vessel may continue to be operated or used safely, the chief inspector or the inspector

shall issue a certificate of inspection upon payment of the prescribed fee and expenses. 1951, c. 7, s. 23.

Fee and expenses to be paid to inspector

24. The fee for a certificate of inspection and the expenses of the inspector shall be paid to the inspector at the time of inspection, unless the chief inspector has notified the inspector that the fee and expenses are being remitted direct to the chief inspector. 1951, c. 7, s. 24.

Certificate of inspection authorizes operation

25.—(1) A certificate of inspection is *prima facie* evidence of the due inspection of the boiler or pressure vessel and the certificate, subject to this Act, authorizes the operation of the boiler or pressure vessel in accordance with the terms of the certificate.

Expiration of certificate of inspection

(2) Every certificate of inspection shall be in force until the next annual inspection is made unless it is sooner cancelled or unless a shorter period is specified therein.

Maximum pressure to be recorded in certificate

(3) The maximum pressure at which a boiler or pressure vessel may be operated or used, or the safety-valve set to relieve, shall be set forth in the certificate of inspection.

Certificate of inspection to be made available

(4) Every certificate of inspection shall be made available by the owner or other person responsible for or in immediate charge of the boiler, pressure vessel or plant upon demand of an inspector and, where practicable, shall be posted in a conspicuous place near the boiler or pressure vessel to which it relates. 1951, c. 7, s. 25.

Prohibition re operation without certificate of inspection

26. No person shall operate a boiler or use a pressure vessel unless a certificate of inspection or a certificate of approval with regard to such boiler or pressure vessel is in force. 1951, c. 7, s. 26.

Further inspection at any time

27.—(1) Notwithstanding that a certificate of inspection is in force, the chief inspector may order a further inspection of a boiler or pressure vessel at any time, or an inspector may make a further inspection at any time, and the owner shall pay the fee and expenses prescribed therefor.

Inspector to amend certificate in force

(2) Where an additional inspection of a boiler or pressure vessel is made, the inspector shall amend the certificate of inspection then in force to indicate the fact that such further inspection has been made. 1951, c. 7, s. 27.

Insured boiler or pressure vessel

28.—(1) Where a boiler or pressure vessel has been insured, the annual inspection shall be carried out by or through the insurer and the insurer, if satisfied that the boiler or pressure

vessel may be operated or used safely, shall issue a certificate of inspection therefor.

(2) Where a boiler or pressure vessel is insured, it is exempt from annual inspection by inspectors appointed under this Act and its owner is exempt from the payment of fees as prescribed for such inspections while the insurance is in force, but the Minister may nevertheless require the boiler or pressure vessel to be inspected by an inspector at any time.

(3) Every insurer shall file with the chief inspector, within thirty days after the inspection has been made, a copy of the report of the annual inspection of every boiler and pressure vessel insured by him over the signature of the person making the inspection.

(4) Every insurer shall forthwith notify the chief inspector in writing of the cancellation of insurance on a boiler or pressure vessel insured by him or of the rejection of insurance on a boiler or pressure vessel together with the reasons therefor.

(5) Where an insurer has cancelled insurance on a boiler or pressure vessel because he considers it unsafe for operation or use, he shall cancel its certificate of inspection issued by him and shall take possession of the certificate. 1951, c. 6, s. 28.

29.—(1) The Minister may permit the chief inspector to employ the services of an insurer or of any person qualified to engage in the business of inspection of boilers and pressure vessels in Ontario to make any inspection required under this Act and to report thereon within fourteen days after the completion of the inspection.

(2) Where a boiler or pressure vessel is to be built outside Ontario in any province of Canada for use in Ontario, the chief inspector may arrange with the person in charge of inspection of boilers and pressure vessels for the province in which it is to be constructed to carry out inspections during construction and may accept the inspection reports submitted to him by such person for the purposes of this Act.

(3) Where a boiler or pressure vessel is to be built in the United States of America for use in Ontario, the chief inspector may arrange for the inspection of it during construction by an inspector holding a commission issued by the National Board of Boiler and Pressure Vessel Inspectors, and may accept the inspection reports of such inspector for the purposes of this Act.

Inspection
of boiler or
pressure
vessel to
be built
elsewhere

(4) Where a boiler or pressure vessel is to be built outside Canada or the United States of America for use in Ontario, the chief inspector may arrange for the inspection of it during construction through any agency engaged in boiler or pressure vessel inspection and may accept the inspection reports of the agency for the purposes of this Act. 1951, c. 7, s. 29.

Used
boilers and
pressure
vessels

30. Every used boiler and pressure vessel shall be inspected and tested by an inspector before it is put into operation or use, and, if the chief inspector is satisfied that it may be operated or used safely, he may issue a certificate of inspection upon payment of the prescribed fee and expenses. 1951, c. 7, s. 30.

Installation
of boiler or
pressure
vessel pre-
viously used
outside
Ontario

31.—(1) No boiler or pressure vessel previously used outside Ontario shall be installed unless the consent of the chief inspector has been obtained for such installation, and such boiler or pressure vessel shall not be operated or used until a certificate of inspection has been issued therefor.

Details to
be given
to chief
inspector

(2) The person applying for consent under subsection 1 shall provide the chief inspector with details in writing as to the design, type, specifications, make, date and place of manufacture and the name of the manufacturer of the boiler or pressure vessel and such other information as the chief inspector requires. 1951, c. 7, s. 31.

Repairs to
boiler or
pressure
vessel found
unsafe

32. Where a boiler or pressure vessel is found to be in an unsafe condition, no person shall make any major repairs thereto until he has notified an inspector of the nature and extent of such repairs and the inspector has approved thereof, and the boiler or pressure vessel shall not be put into operation or use until a further inspection has been made and a new certificate of inspection has been issued therefor. 1951, c. 7, s. 32; 1953, c. 9, s. 4.

Defects in
boiler, etc.,
to be
pointed out
to inspector

33. When a boiler or pressure vessel is being inspected, the owner, chief engineer, shift engineer or other person responsible for or in immediate charge thereof shall point out to the inspector any defect of which he has knowledge or that he believes to exist in the boiler or pressure vessel and, if at any time he learns of any defect that might render the boiler or pressure vessel unsafe to operate or use, he shall forthwith notify the chief inspector. 1951, c. 7, s. 33.

Condemned
boiler or
pressure
vessel

34.—(1) Where an inspector has inspected a boiler or pressure vessel and has satisfied himself that it can no longer be operated or used safely, he shall notify the chief inspector

that he has condemned it and shall seal it with a seal or label indicating that it is condemned and shall take possession of its certificate of inspection.

(2) No person shall operate a boiler or use a pressure vessel that has been condemned unless he has had it repaired as required by the chief inspector and a further inspection has been made and a certificate of inspection has been issued therefor. Prohibition re operation of condemned boiler

(3) No boiler or pressure vessel that has been condemned shall be sold or moved to another location for re-use without the consent of the chief inspector. 1951, c. 7, s. 34. Prohibition re sale or removal for re-use

35.—(1) The procedures to be followed in the welding of boilers or pressure vessels shall be approved by the chief inspector. Approval of procedures in welding

(2) Every welding operator shall be tested under an approved procedure and no welding operator shall weld except under an approved procedure. 1953, c. 9, s. 5, *part*. Welding to be done under approved procedure

36. Every welding operator shall pass such qualification tests as the chief inspector requires. 1953, c. 9, s. 5, *part*. Qualification tests

37.—(1) The chief inspector shall issue an identification card to every welding operator who passes a qualification test. Identification card

(2) Every identification card shall indicate the employer for which the welding operator is qualified to weld and the class or position of welding that he is qualified to do. 1953, c. 9, s. 5, *part*. Idem

38. A welding operator may be required at any time to pass such further qualification tests as the chief inspector requires, at which time his identification card shall be cancelled and on passing such further tests a new identification card shall be issued to him. 1953, c. 9, s. 5, *part*. Further tests

39. Such fees as are prescribed by the regulations for the test of a welding operator shall be paid by the employer of the welding operator at the time the test is given. 1953, c. 9, s. 5, *part*. Fees paid by employer

40. Every welding operator shall carry his identification card upon his person when welding and shall produce it when requested by an inspector. 1953, c. 9, s. 5, *part*. Identification card to be carried by welding operator

Welding for
new
employer

41. When a welding operator changes his employ, he shall not commence to weld for a new employer until he has passed a further qualification test and has been issued a new identification card. 1953, c. 9, s. 5, *part*.

Prohibition
for un-
qualified
person
to weld

42.—(1) No welding operator shall do welding,

- (a) unless he is the holder of an identification card;
- (b) for an employer other than the employer named on his identification card; or
- (c) of a class or position of welding for which he is not qualified.

Employer
not to permit
welding by
unqualified
person

(2) No employer shall permit a welding operator to do welding,

- (a) who is not qualified to weld for such employer; or
- (b) of a class or position of welding for which he is not qualified. 1953, c. 9, s. 5, *part*.

Notification
of accidents

43.—(1) Where an explosion or rupture of a boiler or pressure vessel occurs, or where an accident arises out of its operation or use that causes injury or death to a person, the owner or person in charge shall forthwith notify the chief inspector by telephone or telegraph giving him full details of the accident.

Investiga-
tion of
accident

(2) The chief inspector or any inspector under his instruction shall investigate any explosion, rupture or accident so reported to determine its cause. 1951, c. 7, s. 38.

After
explosion
or rupture,
parts not to
be removed,
etc.

44. After an explosion or rupture of a boiler or pressure vessel has occurred, no part or parts of it shall be moved nor shall the position of any of them be altered by anyone until the permission of an inspector has been obtained, except to remove a person who has been injured or killed. 1951, c. 7, s. 39.

Appeal from
action of
inspector

45.—(1) Any person who is dissatisfied with an inspection or action taken by an inspector may within thirty days thereof appeal to the Minister, who may thereupon cause another inspection to be made by one or more inspectors who shall report to him, and the decision of the Minister is final.

Expenses of
appeal

(2) Any expenses occasioned by the appeal and second inspection shall be paid as determined by the Minister. 1951, c. 7, s. 40.

46. Subject to this Act and the regulations, the publications of the Canadian Standards Association, of the American Standards Association and of the American Society of Mechanical Engineers, as amended from time to time, shall be deemed to contain the rules that shall be referred to by the chief inspector and the inspectors in carrying out their duties under this Act in reference to the approval of designs, the manufacture, installation, inspection, testing and operation of boilers, pressure vessels and plants. 1951, c. 7, s. 41.

Publications
to be referred to by
inspectors

47. Where a certificate of inspection has been cancelled with respect to a boiler or pressure vessel, no person shall operate or use or permit to be operated or used such boiler or pressure vessel until a further inspection has been made and a new certificate of inspection has been issued and the prescribed fee and expenses have been paid. 1951, c. 7, s. 42.

Operation
prohibited
after cancellation of
certificate

48. Every person who contravenes any of the provisions of this Act or the regulations, or any instruction or order given to him by an inspector, or hinders or obstructs an inspector in the performance of his duties under this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. 1951, c. 7, s. 43.

Offences

49.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

1. prescribing the qualifications of persons who may be appointed inspectors or who may make inspections under this Act;
2. providing for the issue of certificates of competency to inspectors and determining the period for which such certificates shall continue in force and the terms upon which they may be renewed;
3. providing for the issue of certificates of competency to persons other than inspectors and determining the period for which such certificates shall continue in force and the terms upon which they may be renewed;
4. prescribing the examination fees to be paid by an applicant for a certificate of competency;
5. prescribing the fee to be paid on the issue and renewal of a certificate of competency;

6. prescribing the terms upon which a certificate of competency may be issued with or without examination to a person who is qualified to inspect boilers and pressure vessels in any other province of Canada or in any of the states of the United States of America and the fee to be paid therefor;
7. prescribing the reasons for which a certificate of competency may be suspended or cancelled;
8. prescribing the manner in which the design of a boiler, pressure vessel, fitting or plant shall be registered and numbered and the manner in which a boiler, pressure vessel or fitting shall be marked or identified;
9. prescribing the drawings and specifications that shall accompany an application for approval and registration of the design of a boiler, pressure vessel, fitting or plant and the information to be included therein;
10. prescribing the fees to be paid on the approval and registration of the design of a boiler, pressure vessel, fitting or plant;
11. prescribing the terms and conditions upon which a registered and approved design may be revised;
12. prescribing the fee to be paid in respect of the revision of any registered and approved design;
13. prescribing the fees to be paid on the inspection of a boiler or pressure vessel;
14. prescribing the manner by which the capacity of a boiler, pressure vessel or plant may be determined;
15. providing for the payment by the manufacturer or owner of a boiler or pressure vessel of any or all of the expenses incurred by an inspector in making an inspection of a boiler or pressure vessel;
16. requiring the manufacturer or his agent or officer in charge of construction to make a report in respect of the construction of a boiler or pressure vessel and prescribing the information that shall be contained in the report and the manner in which it shall be verified;

17. prescribing the fee to be paid on the issue of a certificate of approval;
18. prescribing the plans, drawings or information to be given in respect of the repair of a boiler or pressure vessel;
19. prescribing the conditions under which a boiler or pressure vessel may be mounted on a vehicle;
20. providing for the assigning of symbols to welding operators and the manner in which such symbols shall be stamped by the welding operator on welds made by him;
21. prescribing the fee to be paid on the approval of procedures to be followed in the welding of boilers or pressure vessels;
22. prescribing the fee to be paid on the test of a welding operator;
23. classifying boilers, pressure vessels and plants, and prescribing the purposes for which they may be used;
24. classifying refrigerants and governing the conditions under which they may be used and prescribing the types of buildings in which they may be used;
25. prescribing, regulating and governing the use or installation of boilers or pressure vessels or of any class or type thereof;
26. prescribing forms, seals or markings and providing for their use;
27. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1951, c. 7, s. 44 (1); 1953, c. 9, s. 6; 1960, c. 5, s. 1.

(2) Any word or expression used in the regulations may ^{Expressions defined in regulations} be defined in the regulations for the purposes of the regulations. 1951, c. 7, s. 44 (2).

50. All fees and expenses collected under this Act and all ^{Application of fees and penalties} fines recovered for offences against this Act or the regulations shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1951, c. 7, s. 45.

CHAPTER 38

The Boundaries Act

1. In this Act,

Interpre-
tation

- (a) “block outline survey” means a survey in which outline monuments are placed at suitable points at or near some or all highway intersections or angles in highway boundaries, or in cases where no highway exists, then at other suitable points;
- (b) “complete survey” means a survey that defines on the ground every angle of every parcel in the area surveyed;
- (c) “director” means the director of titles appointed under *The Land Titles Act*; R.S.O. 1960,
c. 204
- (d) “examiner” means the examiner of surveys appointed under *The Land Titles Act*;
- (e) “monument” means a post, stake, peg, stone, mound, pit or other object or device used to define the position of a boundary corner or line;
- (f) “outline monument” means a monument that defines a position in a block outline survey made under this Act or *The Land Titles Act*, or a monument that defines a block corner in a subdivision survey, or a monument that defines a highway boundary;
- (g) “parcel” means a lot, block or other area into which land is divided;
- (h) “proper master of titles” means the master of titles or local master of titles in whose office the land described in or affected by an application under this Act is or may be registered;
- (i) “surveyor” means an Ontario land surveyor authorized to practise under *The Surveyors Act*. 1959, R.S.O. 1960,
c. 389
c. 8, s. 1.

Administra-
tion

2.—(1) This Act shall be administered by the director.

Idem

R.S.O. 1960,
c. 204

(2) In the administration of this Act, the deputy director of titles appointed under *The Land Titles Act* and the examiner shall act under the supervision of the director.

Deputy
director

(3) In the absence of the director or if the office of director is vacant or if directed by the director, the deputy director of titles shall act as director for the purposes of this Act and, while so acting, he has and may exercise the powers and duties of the director under this Act. 1959, c. 8, s. 2.

Assistant
deputy
directors

3. The Lieutenant Governor in Council may appoint one or more assistant deputy directors of titles for the purposes of this Act. 1959, c. 8, s. 3.

Powers of
dire tor

R.S.O. 1960,
c. 323

4. The director has and may exercise in connection with his functions under this Act all of the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1959, c. 8, s. 4.

Application
for confir-
mation of
existing
survey

5.—(1) An application to the director to have the boundaries of a parcel that were established by a survey confirmed under this Act may be made by,

(a) the owner;

(b) the council of the municipality in which the parcel is situate;

(c) the Minister of Highways;

(d) the Inspector of Legal Offices;

(e) the proper master of titles;

R.S.O. 1960,
c. 324

(f) the Surveyor General under *The Public Lands Act*; or

R.S.C. 1952,
c. 26

(g) the Surveyor General under the *Canada Lands Surveys Act*.

Additional
survey
work

(2) Upon receipt of an application under this section, the director may appoint a surveyor to do such additional survey work as he requires. 1959, c. 8, s. 5.

Application
for survey
and con-
firmation

6.—(1) Where,

(a) an error appears in or doubt exists as to the accuracy of a survey or plan of a parcel or as to the true location of any of its boundaries;

- (b) a difference exists or is thought to exist between the occupational boundaries of a parcel and the boundaries as shown on a registered plan of subdivision or other plan or in the description in the instrument under which the parcel is held or in the title register; or
- (c) the boundaries of a parcel are not shown on a registered plan of subdivision,

an application to the director to have the parcel surveyed and the boundaries that are established by the survey confirmed under this Act may be made by,

- (d) the owner;
- (e) the council of the municipality in which the parcel is situate;
- (f) the Inspector of Legal Offices; or
- (g) the proper master of titles.

(2) Upon receipt of an application under this section, the Survey director may appoint a surveyor to make a survey and plan of the parcel. 1959, c. 8, s. 6.

7. The director of his own accord upon finding any of the conditions prescribed in section 6 to exist in respect of any parcel may appoint a surveyor to make a survey and plan of the parcel. 1959, c. 8, s. 7.

8.—(1) The director may order any survey under this Act to be made in whole or in part as a block outline survey or as a complete survey.

(2) The director may give such instructions to the surveyor as he considers necessary and the surveyor shall comply therewith. 1959, c. 8, s. 8.

9. When a surveyor has completed the work ordered to be done under section 5, 6 or 7, he shall, notwithstanding *The Surveys Act*, deposit the plan and original field notes of the survey with the director. 1959, c. 8, s. 9.

10.—(1) When a plan and field notes have been deposited under section 9, the director shall cause a notice thereof,

- (a) to be published in *The Ontario Gazette*; and

(b) to be given in such manner and to such persons as the director deems proper,

setting forth the purpose of the survey and the day, hour and place that he has fixed for hearing the objections of any person thereto.

Copy of
plan

(2) The director shall furnish a copy of the plan to any person who applies therefor. 1959, c. 8, s. 10.

Written
statement
of objections

11. Any person desiring to object to the survey or plan shall deliver to the director by registered mail or by personal service not less than three days before the day fixed for the hearing a written statement setting forth the nature and grounds of his objections. 1959, c. 8, s. 11.

Hearing
and
confirmation

12.—(1) Upon the hearing, the director may dispose of any objections in such manner as he deems just and equitable under all the circumstances and may confirm the survey and plan, or, if he thinks proper to do so, may order that the survey and plan be amended in such manner as he directs in which case he may confirm the survey and plan as so amended.

Notice of
confirmation

(2) Notice of the confirmation shall be given in the same manner and to the same persons as the notice of the hearing was given under subsection 1 of section 10. 1959, c. 8, s. 12.

Appeal from
confirmation

13.—(1) Any person objecting to the confirmation may appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue and may dismiss the appeal or order the director to amend the survey and plan in such manner as the judge deems proper.

Notice of
appeal

(2) Notice of an appeal under this section shall be served upon the director within twenty days after the date of the publication in *The Ontario Gazette* of the notice of confirmation. 1959, c. 8, s. 13.

Certificate
of
confirmation

14. When the period of twenty days mentioned in section 13 has elapsed and no appeal has been taken or, if taken, has been disposed of, the director may certify his confirmation of the plan of survey and the certificate is conclusive that every application, notice, publication, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act. 1959, c. 8, s. 14.

Effect of
certificate

15.—(1) The boundaries fixed by the survey and plan that have been certified by the director and defined by the

monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel.

(2) Nothing in this Act affects the establishment or re-^{Saving} establishment of lines under *The Surveys Act*, other than the ^{R.S.O. 1960,} boundaries fixed under this Act. 1959, c. 8, s. 15. ^{c. 390}

16. Where the owners of adjoining parcels consent to the ^{Boundaries} establishment of their mutual boundaries by a survey and ^{established} plan made under this Act, the director may confirm and ^{by consent} certify the survey and plan of those boundaries and sections 10, 11, 12 and 13 do not apply. 1959, c. 8, s. 16.

17.—(1) When a plan has been certified under this Act by ^{Registration,} the director, he shall register it in the proper land titles or ^{etc.} registry office and, where the land is in a municipality, he shall deliver a duplicate plan to the clerk of that municipality.

(2) A plan registered under subsection 1 supersedes all ^{Effect of} corresponding portions of all former registered plans and ^{registration} descriptions and such alterations in the records of the land titles or registry office, as the case may be, as are necessary to give effect thereto shall be made. 1959, c. 8, s. 17.

18. Notwithstanding section 161 of *The Land Titles Act* or ^{Right to} subsection 20 of section 86 of *The Registry Act*, a plan certified ^{registration} under this Act may be registered under *The Land Titles Act* ^{R.S.O. 1960,} or *The Registry Act*, as the case may be, without any approval ^{cc. 204,} under *The Planning Act*. 1959, c. 8, s. 18. ^{348, 296}

19. When a survey and plan have been certified under this ^{Monuments} Act, the director may order the removal of any monument that conflicts with any monument placed under this Act. 1959, c. 8, s. 19.

20.—(1) No claim shall be made against the Assurance ^{No claim} Fund established under *The Certification of Titles Act* or ^{against} against the Assurance Fund established under *The Land Titles* ^{assurance} *Act* in consequence of the boundaries of land having been ^{funds} certified under this Act. ^{R.S.O. 1960,} ^{cc. 48, 204}

(2) The protection afforded the assurance funds under this ^{Title} section extends to an insurer who has issued a policy of title ^{insurance} insurance as defined by paragraph 62 of section 1 of *The* ^{R.S.O. 1960,} *Insurance Act*. 1959, c. 8, s. 20. ^{c. 190}

21. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) requiring and providing for a cash or other deposit on applications;

- (b) requiring the payment of fees upon the performance of any function under this Act and prescribing the amounts thereof;
 - (c) prescribing the procedures to be followed with respect to matters under this Act by masters of titles and registrars of deeds;
 - (d) prescribing forms and providing for their use;
 - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1959, c. 8, s. 21, *amended*.
-

CHAPTER 39

The Bread Sales Act

1. In this Act,

Interpre-
tation

(a) "bake shop" means a building, premises, workshop, room or place in which bread is made for sale or sold;

(b) "inspector" means an inspector appointed by a municipal council under this Act or a member of the Ontario Provincial Police Force. R.S.O. 1950, c. 39, s. 1.

2. The council of every city, town and village shall, and the council of every township may, appoint an inspector for the purpose of enforcing this Act. R.S.O. 1950, c. 39, s. 2.

Appoint-
ment of
inspector

3.—(1) Every person conducting a bake shop shall do so only under a licence to be issued by the municipality, and under regulations and conditions prescribed by by-law of the municipality, and no licence shall be issued until the medical officer of health gives a certificate that all regulations and conditions have been fully complied with.

Bake shops
to be
licensed

(2) Any licence issued under this Act may be revoked by the council of the municipality.

Revocation

(3) The fee for the licence shall not exceed \$1. R.S.O. 1950, c. 39, s. 3.

Fee

4.—(1) Except as provided in subsection 2, no person shall make bread for sale or sell or offer for sale bread except in loaves weighing 16, 24 or 48 ounces avoirdupois.

Weight
of bread

(2) Small-bread may be made for sale, offered for sale and sold in any weight not exceeding 12 ounces avoirdupois. R.S.O. 1950, c. 39, s. 4.

Small-bread

5. Every person making bread for sale shall keep in a conspicuous and convenient place in the bake shop scales and weights suitable for weighing bread, and shall weigh the bread offered for sale by him at the request of any person desiring

Scales and
weights in
bake shop

to purchase the bread, and the inspector may use such scales at any time for the purpose of weighing bread found by him in the bake shop. R.S.O. 1950, c. 39, s. 5.

Offences

6. Every person who makes for sale or sells or offers for sale bread in contravention of the preceding sections, or who neglects to comply with section 5, is guilty of an offence. R.S.O. 1950, c. 39, s. 6.

Offence
of using
deleterious
material

7.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale, or who knowingly sells or offers for sale any bread containing adulterant or deleterious material, is guilty of an offence, and is also liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

Prima facie
evidence of
offence

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material that may be used in the making of bread is *prima facie* evidence of an offence against subsection 1. R.S.O. 1950, c. 39, s. 7.

Offence of
interfering
with
inspector

8. Every person who refuses the inspector admittance to his bake shop or who interferes with the inspector in the performance of his duties is guilty of an offence. R.S.O. 1950, c. 39, s. 8.

Inspector's
powers

9.—(1) An inspector may at any time prior to the delivery to a purchaser, weigh any bread made or offered for sale, and may take away any bread and cause it to be tested for the purpose of determining if any adulterant or deleterious material has been used in the making thereof.

Destruction
of
adulterated
bread

(2) If the bread is found to contain any such adulterant or deleterious material, the inspector shall destroy it.

Disposal of
light-weight
bread

(3) Where the inspector, upon weighing the bread, finds that it is of less than the prescribed weight, he shall seize and remove it and hand it over to some charitable institution. R.S.O. 1950, c. 39, s. 9.

Duties of
inspector

10. It is the duty of the inspector to see that this Act is complied with, and he shall make a report quarterly to the council showing the prosecutions taken and the quantity of bread seized or tested under this Act. R.S.O. 1950, c. 39, s. 10.

11. No person is liable to the penalties prescribed by this Act for making or offering for sale short-weight bread unless in the case of a manufacturer there are found at least ten short-weight loaves and in the case of a retailer there are found at least five short-weight loaves, at one time, but all short-weight loaves are nevertheless liable to seizure as hereinbefore provided. R.S.O. 1950, c. 39, s. 11.

12. In any prosecution under this Act, the certificate of the analyst or assistant analyst of the Department of Health in writing stating the result of any test made by him under this Act and purporting to be signed by him is *prima facie* evidence of the facts therein set forth and is receivable without proof of the signature or of the official character of the person who appears to have signed it. R.S.O. 1950, c. 39, s. 12.

13. Every person guilty of an offence under this Act, on summary conviction, is liable to a fine of not less than \$10 and not more than \$100 for the first offence, and not less than \$25 and not more than \$200 for any subsequent offence. R.S.O. 1950, c. 39, s. 13.

CHAPTER 40

The Bridges Act

1. This Act applies to,

Application
of Act

- (a) every river or stream or part thereof where its bed is vested in Her Majesty in right of Ontario; and
- (b) every place upon a river or stream where Her Majesty in right of Ontario, or any board or commission constituted under any Act of the Legislature, is a riparian owner. R.S.O. 1950, c. 40, s. 1.

2.—(1) No bridge or other structure shall be built, placed or constructed over or across any river or stream or part thereof, nor shall any bridge or other structure over or across any river or stream or part thereof be rebuilt, replaced or altered, where the cost of such building, placing, constructing, rebuilding, replacing or altering will exceed \$2,000, except with the approval of the Lieutenant Governor in Council.

Approval of
Lieutenant
Governor in
Council

(2) The Lieutenant Governor in Council may approve of the building, placing, constructing, rebuilding, replacing or altering of any such bridge or other structure upon receiving,

Conditions
of approval

- (a) a petition praying for such approval;
- (b) proof that the plan of the proposed bridge or alterations and a surveyor's description of the site or proposed site have been deposited with the Minister of Highways and in the proper registry office or land titles office; and
- (c) proof that notice of such application has been published for three successive weeks in *The Ontario Gazette* and in two newspapers having a general circulation in the locality where the site or proposed site of the bridge is located. R.S.O. 1950, c. 40, s. 2, *amended*.

3.—(1) No person shall build, place, construct, operate or maintain any bridge the cost of which is in excess of \$2,000, unless such person is,

Who may
build
bridge

- (a) a person domiciled and ordinarily resident in Ontario;
- (b) a corporation incorporated under the laws of Canada;
- (c) a corporation incorporated under the laws of Ontario; or
- (d) a corporation licensed under Part IX of *The Corporations Act*.

R.S.O. 1960,
c. 70

Where
bridge
operated,
etc., con-
trary to
subs. 1

(2) Where a bridge is built, placed, constructed, operated or maintained contrary to subsection 1, such bridge or so much thereof as is in Ontario shall, subject to any direction of the Lieutenant Governor in Council, be deemed to be the property of Her Majesty in right of Ontario. R.S.O. 1950, c. 40, s. 3.

Regulations

4. The Lieutenant Governor in Council may make regulations regarding the building, placing, constructing, rebuilding, replacing, alteration, operation, maintenance and control of bridges and other structures over or across any river, stream or part thereof including the exemption of any commission constituted under any Act of the Legislature or any railway company from any of the provisions of this Act. R.S.O. 1950, c. 40, s. 4.

CHAPTER 41

The Brucellosis Act

1. In this Act,

Interpre-
tation

- (a) "brucellosis" means the infectious disease of cattle caused by the organism *brucella abortus*;
- (b) "calf" means a head of cattle under one year of age;
- (c) "cattle owner" means a person owning or keeping one or more head of cattle, and includes a person in charge of premises where cattle are kept;
- (d) "chief inspector" means the chief inspector appointed under this Act;
- (e) "Commissioner" means the Live Stock Commissioner;
- (f) "inspector" means an inspector appointed under this Act, and includes the chief inspector;
- (g) "laboratory" means a laboratory for the making of tests for brucellosis that is designated as such in the regulations;
- (h) "Minister" means the Minister of Agriculture;
- (i) "regulations" means the regulations made under this Act;
- (j) "supervised area" means a municipality or unorganized township that is designated as a supervised area;
- (k) "vaccinate" means inoculate by vaccine in accordance with the regulations;
- (l) "veterinarian" means a person holding a certificate entitling him to practise veterinary science under *The Veterinarians Act*. 1956. c. 4, s. 1.

R.S.O. 1960,
c. 416

Petition
for designa-
tion of
supervised
area

2.—(1) Upon receipt of a petition that in the opinion of the clerk of a township in a county or territorial district bears the signatures of at least two-thirds of the cattle owners in that township requesting that the township be designated as a supervised area, the clerk shall make a certificate in the form prescribed by the regulations and shall, within sixty days after the receipt of the petition, send it, together with the petition, to the Commissioner.

Recom-
mendation
for designa-
tion as
supervised
area

(2) When the Commissioner receives the certificate and the petition from the clerk of a township, the Commissioner may recommend to the Minister that the township be designated a supervised area.

Idem, all
municipali-
ties in
county or
district

(3) When the Commissioner receives the certificate and the petition from the clerk of a township that is within a county in which all of the other townships are supervised areas, the Commissioner shall recommend to the Minister that all the municipalities in the county be designated as supervised areas.

Idem,
unorganized
township

(4) Upon receipt of a petition by the Commissioner that in his opinion bears the signatures of at least two-thirds of the cattle owners in an unorganized township requesting that the unorganized township be designated as a supervised area, the Commissioner may recommend to the Minister that the unorganized township be designated as a supervised area. 1956, c. 4, s. 2.

Power to
designate
supervised
area

3. The Lieutenant Governor in Council may designate any municipality or unorganized township as a supervised area. 1956, c. 4, s. 3.

Inspectors

4. The Lieutenant Governor in Council may appoint a chief inspector and one or more inspectors for the purposes of this Act. 1956, c. 4, s. 4.

Appoint-
ment of
veterinarians

5.—(1) Upon application therefor in the form prescribed by the regulations, the Minister may appoint for the purposes of this Act one or more veterinarians for one or more supervised areas.

Agreements
respecting
veterinar-
ians' services

(2) Where the Minister appoints a veterinarian for the purposes of this Act, he shall make an agreement with the veterinarian providing for,

(a) the vaccination of female calves;

(b) the taking of samples of blood of cattle for the purpose of making tests for brucellosis; and

- (c) the branding of cattle that have been found by test to be infected with brucellosis,

and for the remuneration that will be payable to the veterinarian for such services.

(3) With the approval of the chief inspector, a veterinarian appointed for the purposes of this Act may engage one or more persons to assist him in the discharge of his duties under this Act, but the veterinarian is responsible for all acts of his assistants in the discharge of such duties. 1956, c. 4, s. 5.

6. No veterinarian appointed for the purposes of this Act shall use or supply to any person for use in any vaccination for brucellosis any vaccine other than a vaccine prescribed by the regulations. 1956, c. 4, s. 6.

7. No person shall vaccinate any head of cattle over one year of age without the written permission of the Commissioner or chief inspector. 1956, c. 4, s. 7.

8. No person shall offer for sale or sell, except for purposes of immediate slaughter, any head of cattle that he knows is infected with brucellosis without informing the buyer or his agent that the head of cattle is so infected. 1956, c. 4, s. 8.

9. No person shall ship, transport, drive or carry into a supervised area any female cattle, except,

- (a) calves under ten months of age;

- (b) cattle under three years of age that have been vaccinated, where the certificates of vaccination are delivered with the cattle;

- (c) cattle that have been tested and found not to be infected with brucellosis, where the certificates of freedom from brucellosis are delivered with the cattle;

- (d) cattle being shipped, transported, driven or carried for the purpose of immediate slaughter or removal to a place not within a supervised area; or

- (e) cattle shipped, transported, driven or carried into a supervised area under a permit issued by the Commissioner or an inspector upon such terms and conditions as he deems appropriate for the particular case. 1956, c. 4, s. 9; 1957, c. 5, s. 1.

Veterinarians' assistants

Only prescribed vaccine to be used

Permission to vaccinate cattle over 1 year old

Prohibition as to sale

Shipping, etc., prohibited

Exceptions

Bringing
female
calves into
supervised
area

10. Where a female calf under ten months of age that has not been vaccinated is brought into a supervised area, the owner of such calf shall, within ten days thereafter, inform a veterinarian or an inspector of the particulars thereof. 1956, c. 4, s. 10; 1957, c. 5, s. 2.

Requirement
as to
vaccination
of female
calves

11. Except as provided in the regulations, every female calf in a supervised area shall be vaccinated before it becomes eleven months of age. 1956, c. 4, s. 11; 1957, c. 5, s. 3.

Notice of
calf to be
vaccinated

12.—(1) Every cattle owner in a supervised area who has a female calf to be vaccinated under this Act shall, during the period after the calf becomes four months of age and before it becomes ten months of age, notify a veterinarian that he has such a calf. 1956, c. 4, s. 12 (1); 1957, c. 5, s. 4 (1).

Vaccination
under Act

(2) Where a veterinarian appointed for the purposes of this Act receives a notice under subsection 1, he shall vaccinate the calf without cost to its owner.

Vaccination
not under
Act

(3) Where a veterinarian, other than a veterinarian appointed for the purposes of this Act, receives a notice under subsection 1, he may, after having informed the owner of the calf that the cost of the vaccination by him is not provided for under this Act, vaccinate the calf on such terms as he and the owner of the calf agree upon. 1956, c. 4, s. 12 (2, 3).

Where
vaccination
not done

(4) Where a veterinarian receives a notice under subsection 1 and for any reason the calf to which the notice relates has not been vaccinated at the time it becomes eleven months of age, the veterinarian shall forthwith notify the Commissioner or an inspector of the circumstances of the case. 1956, c. 4, s. 12 (4); 1957, c. 5, s. 4 (2).

Certificate
of
vaccination

13. Every veterinarian who vaccinates a female calf shall make in quadruplicate a certificate of vaccination thereof in the form prescribed by the regulations and shall forthwith deliver or send by mail the original copy to the owner of the calf and shall, within ten days after the end of the month in which the vaccination was done, deliver or send by mail three copies to the Commissioner. 1956, c. 4, s. 13.

Compensation

14. Where a female calf is vaccinated by a veterinarian appointed for the purposes of this Act and it dies within twenty-four hours thereafter, the Minister may compensate the owner of the calf for the loss so suffered as determined by a valuator appointed by the Commissioner, but not more than \$100 shall be paid in the case of a pure-bred calf and

not more than \$50 in the case of any other calf, and in no case shall any amount be paid,

- (a) unless the owner of the calf notifies an inspector or a veterinarian of its death within twenty-four hours thereafter; and
- (b) unless a veterinarian who has conducted a *post mortem* examination of the calf certifies that its death resulted from the vaccination. 1956, c. 4, s. 14.

15.—(1) Where a cattle owner requests that a blood test ^{Blood tests} for brucellosis be made of a head of cattle, the Commissioner or the chief inspector may authorize a veterinarian appointed for the purposes of this Act to take the sample of blood required for the test, but no such veterinarian shall take a sample of blood for such test without first obtaining the written permission of the owner of the head of cattle for the branding of it in the event that it is found by the test to be infected with brucellosis.

(2) When such veterinarian takes a sample of blood from ^{Idem} a head of cattle for a test for brucellosis, he shall send it immediately to the operator of a laboratory together with the name and address of the owner of the head of cattle and sufficient information to identify it.

(3) When the operator of a laboratory receives a sample ^{Reports} of blood from a veterinarian for a test for brucellosis, the operator shall make the test as soon as practicable and shall prepare a report in the form prescribed by the regulations and shall, within ten days after making the test, send two copies of the report to the veterinarian, and if the report shows that the head of cattle is infected with brucellosis, he shall send a copy of the report to the Commissioner.

(4) When a veterinarian receives the copies of a report ^{Branding} of a test for brucellosis sent to him under subsection 3, he shall deliver one copy thereof to the owner of the head of cattle tested, and, if the report shows that the head of cattle is infected with brucellosis, he shall brand it in accordance with the regulations. 1956, c. 4, s. 15.

16.—(1) An inspector or a veterinarian appointed for the ^{Right of entry} purposes of this Act may at any time between sunrise and sunset enter any land or building, other than a dwelling house, for the purpose of carrying out his duties under this Act.

Identifi-
cation
certificate

(2) The production by an inspector or a veterinarian appointed for the purposes of this Act of an identification certificate purporting to be signed by the Minister is *prima facie* evidence of the facts stated in the certificate.

Hindering,
false
information

(3) No person shall hinder or obstruct an inspector or a veterinarian appointed for the purposes of this Act in the performance of his duties or shall furnish him with false information.

Cattle owner
to provide
assistance

(4) The owner of a female calf being vaccinated shall provide such assistance as the veterinarian requires to restrain the calf. 1956, c. 4, s. 16.

Offences

17. Every person who fails to comply with this Act or the regulations or the terms or conditions of any permit issued under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for a first offence and to a fine of not more than \$200 or to imprisonment for a term of not less than thirty days, or both, for any subsequent offence. 1956, c. 4, s. 17.

Regulations

18. The Lieutenant Governor in Council make make regulations,

- (a) designating any municipality or unorganized township as a supervised area;
- (b) exempting any class of female calves from this Act;
- (c) designating laboratories for the making of tests for brucellosis;
- (d) prescribing the vaccines and the methods to be used in vaccinating female calves against brucellosis;
- (e) providing for the issue of permits under clause *e* of section 9;
- (f) prescribing the brands and the methods of branding cattle to identify those that have been found by test to be infected with brucellosis;
- (g) prescribing forms and providing for their use;
- (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1956, c. 4, s. 18, *amended*.

Moneys to
be voted

19. The moneys required for the purposes of this Act shall be paid out of the moneys that are appropriated therefor by the Legislature. 1956, c. 4, s. 19.

CHAPTER 42

The Building Trades Protection Act

1. In this Act,Interpre-
tation

- (a) "building" includes any structure roofed in or intended to be roofed in and capable, when completed, of affording protection and shelter;
- (b) "inspector" means an inspector appointed for the purpose of enforcing this Act. R.S.O. 1950, c. 41, s. 1, *amended*.

2. The council of every city, town, township and village shall, by by-law, appoint a sufficient number of competent persons to be inspectors for the purpose of enforcing this Act in the municipality. R.S.O. 1950, c. 41, s. 2.

3. The Lieutenant Governor in Council may appoint inspectors to enforce this Act in territory without municipal organization. R.S.O. 1950, c. 41, s. 3.

4.—(1) Where an inspector finds that any provision of this Act is being contravened in the case of any building, he may give such orders in writing as may, in his opinion, be required to secure due compliance with such provision, and, upon any such order being made and until it is carried out, the work upon that part of the building in which the contravention occurs shall be suspended.

(2) Every person to whom the order of the inspector is directed who disobeys or who knowingly permits any person under his direction and control to disobey the order or to carry on work in contravention of subsection 1 before the order is carried out is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for every day upon which the default occurs. R.S.O. 1950, c. 41, s. 4.

5. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall be used that are unsafe, unsuitable or improper, or that

are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building. R.S.O. 1950, c. 41, s. 5.

Require-
ments,
general

6. The following requirements shall be complied with in the erection, alteration, repair, improvement or demolition of any building:

1. The floors of all scaffolding, whether standing or suspended from overhead, shall be at least four feet wide and there shall be a railing or guard not less than three feet nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon.
2. Where the scaffolding or staging is swung or suspended from an overhead support, it shall be so secured as to prevent its swaying to and fro.
3. Where poles are used in scaffolding, the poles shall be securely lashed at every point of contact, and, where square timber is used in scaffolding, it shall be securely spiked or bolted at every point of contact.
4. No lumber or timber shall be hoisted in a single sling.
5. Where a hoist is used for raising materials for use in a building, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor, and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated. R.S.O. 1950, c. 41 s. 6.

Require-
ments as to
completion
of arched
floors, etc.

7.—(1) Where the plans and specifications require the floors to be arched between the beams thereof or where the floors or filling-in between the floors are of fire-proof material, the flooring or filling-in shall be completed as the building progresses to not less than within three tiers of beams below that on which the ironwork is being erected.

Completion
of floor
where fire-
proof filling
not required

(2) Where the plans and specifications do not require filling-in between the beams of floors with fire-proof material or brickwork, the contractor for the carpentry work in the course of construction shall lay the underflooring of the building on each storey as the building progresses to not less than within two storeys below the one to which the building has been erected.

(3) Where double floors are not to be used, such contractor shall keep planked-over the floor two storeys below the storey where the work is being done. Where double floors not used

(4) If the floor beams are of iron or steel, the contractor for the ironwork or steelwork of a building in course of construction or the owner of the building shall thoroughly plank over the entire tier of iron or steel beams on which the structural ironwork or steelwork is being erected, except such spaces as are reasonably required for the proper construction of the ironwork or steelwork and for the raising or lowering of materials to be used in the construction of the building and such spaces as may be designated by the plans and specifications for stairways and elevator shafts. R.S.O. 1950, c. 41, s. 7. Where floor beams of iron or steel

8. In the case of what are known as skeleton steel-frame buildings, compliance with the following requirements is sufficient and it is not necessary to comply with the requirements of section 7: Skeleton steel-frame buildings

1. As soon as the steel frame of a building is erected to the first column-splice above the first floor-level, a flooring of two-inch planking shall be laid over the floor beams on the floor immediately below the first column-splice, making a temporary floor over that part of the area of the building inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point, and when erection has reached a point level with the next column-splice, the planking used as temporary floor at the first column-splice shall be removed and placed as before at the second splice, and so on to the top of the building.
2. A double flooring of two-inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick.
3. Rivetters' staging shall be so constructed as to secure the reasonable safety of the rivetters and a temporary floor shall be provided on the girders and floor beams immediately below the portion of the floor upon which the rivetters are working, sufficient for the protection of workmen engaged below that floor.

4. The steelwork may be carried on in advance of the construction of permanent floors. R.S.O. 1950, c. 41, s. 8.

In cities
and towns

9. In cities and towns the following requirements shall be complied with in erecting, altering or repairing any building:

1. When the work is located on the line of a street or within three feet of the inside line of the sidewalk of a street, before any of the work above the sidewalk or footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.
2. If a building is to be erected within seven feet of the inside line of the sidewalk on a street, a strongly constructed close-boarded fence or barricade, not less than six feet high, shall be erected along the inside line of the sidewalk.
3. No person shall place any stone, brick, lumber, or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in drains, gutters or water courses, and the roofs of all covered ways shall be kept clear of any material. R.S.O. 1950, c. 41, s. 9.

Saving of
powers of
municipalities

10. Nothing in this Act affects any by-law relating to the matters mentioned in this Act that is lawfully passed by a municipal council, or the authority of a municipal council to pass any such by-law, so far as the by-law imposes additional or more stringent requirements than those imposed by this Act. R.S.O. 1950, c. 41, s. 10.

Restriction
on applica-
tion of Act

11. Sections 6, 7 and 8 do not apply to any building not more than two storeys in height nor to any farm building nor to any work being done upon a building by its owner or occupant in person. R.S.O. 1950, c. 41, s. 11.

CHAPTER 43

The Bulk Sales Act**1.** In this Act,Interpre-
tation

- (a) “buyer” means a person who acquires stock in bulk;
- (b) “court” means the county or district court of the county or district in which the seller’s stock or a substantial part thereof is located or the seller’s business or trade or a substantial part thereof is carried on at the time of the sale in bulk;
- (c) “creditor” means any creditor, including an unsecured trade creditor and a secured trade creditor;
- (d) “judge” means a judge of the court;
- (e) “proceeds of the sale” includes the purchase price and any security therefor or for any part thereof, and any other consideration payable to the seller or passing from the buyer to the seller on a sale in bulk, and the moneys realized by a trustee under a security or by the sale or other disposition of any property coming into his hands as the consideration or part of the consideration for the sale, less the proper and reasonable costs of the seller’s solicitor for completing the sale;
- (f) “sale”, whether used alone or in the expression “sale in bulk”, includes a transfer, conveyance, barter or exchange, but does not include a pledge, charge or mortgage;
- (g) “sale in bulk” means a sale of stock in bulk out of the usual course of business or trade of the seller;
- (h) “secured trade creditor” means a person to whom a seller is indebted, whether or not the debt is due,
 - (i) for stock, money or services furnished for the purpose of enabling the seller to carry on business, or

(ii) for rental of premises in or from which the seller carries on business,

and who holds security or is entitled to a preference in respect of his claim;

(i) "seller" means a person who sells stock in bulk;

(j) "stock" means,

(i) goods, wares, merchandise or chattels ordinarily the subject of trade and commerce,

(ii) the goods, wares, merchandise or chattels in which a person trades or that he produces or that are the output of a business, or

(iii) the fixtures, goods and chattels with which a person carries on a trade or business;

(k) "stock in bulk" means stock or part thereof that is the subject of a sale in bulk and all other property, real or personal, that together with stock is the subject of a sale in bulk;

(l) "unsecured trade creditor" means a person to whom a seller is indebted for stock, money or services furnished for the purpose of enabling the seller to carry on a business, whether or not the debt is due, and who holds no security or who is entitled to no preference in respect of his claim. 1959, c. 9, s. 1; 1960, c. 6, s. 1.

Application
of Act

R.S.O. 1960,
c. 236

R.S.C. 1952,
c. 14

Judicial
exemption

2. This Act applies to every sale in bulk except a sale in bulk by an executor, an administrator, a committee of the estate of a mentally incompetent or incapable person, the Public Trustee as committee under *The Mental Hospitals Act* or an order made under that Act, a creditor realizing upon his security, a receiver, an assignee or trustee for the benefit of creditors, a trustee under the *Bankruptcy Act* (Canada), a liquidator or official receiver, or a public official acting under judicial process. 1959, c. 9, s. 2; 1960, c. 6, s. 2.

3.—(1) A seller may apply to a judge for an order exempting a sale in bulk from the application of this Act, and the judge, if he is satisfied, on the affidavit of the seller and any other evidence, that the sale is advantageous to the seller and will not impair his ability to pay his creditors in full, may make the order, and thereafter this Act, except section 7, does not apply to the sale.

(2) The judge may require notice of the application for the order to be given to the creditors of the seller or such of them as he directs, and he may in the order impose such terms and give such directions with respect to the disposition of the proceeds of the sale or otherwise as he deems fit. 1959, c. 9, s. 3.

4.—(1) The buyer, before paying or delivering to the seller any part of the proceeds of the sale, other than the part mentioned in section 6, shall demand of and receive from the seller, and the seller shall deliver to the buyer, a statement verified by the affidavit of the seller (Form 1).

(2) The statement shall show the names and addresses of the unsecured trade creditors and the secured trade creditors of the seller and the amount of the indebtedness or liability due, owing, payable, or accruing due, or to become due and payable, by the seller to each of them, and, with respect to the claims of the secured trade creditors, the nature of their security and whether their claims are due or, in the event of sale, become due on the date fixed for the completion of the sale. 1959, c. 9, s. 4.

5. From and after the delivery of the statement mentioned in section 4, no preference or priority is obtainable by any creditor of the seller in respect of the stock in bulk, or the proceeds of the sale thereof, by attachment, garnishment proceedings, contract or otherwise. 1959, c. 9, s. 5.

6. The buyer may, before he receives the statement mentioned in section 4, pay to the seller on account of the purchase price a sum not exceeding 10 per cent of the purchase price which shall form part of the proceeds of sale and which the seller shall hold in trust,

- (a) for the buyer until completion of the sale, or, if the sale is not completed and the buyer becomes entitled to repayment of it, until it is repaid to the buyer; or
- (b) where the sale is completed and a trustee has been appointed, for the trustee until the seller complies with clause b section 10. 1959, c. 9, s. 6.

7. Any creditor of a seller is entitled to demand of the seller or the buyer, in which case the seller or the buyer, as the case may be, shall forthwith deliver to the creditor, particulars in writing of the sale in bulk. 1959, c. 9, s. 8.

8.—(1) Where the buyer has received the statement mentioned in section 4, he may pay or deliver the proceeds of the

sale to the seller and thereupon acquire the property of the seller in the stock in bulk,

- (a) if the statement mentioned in section 4 discloses that the claims of the unsecured trade creditors of the seller do not exceed a total of \$2,500 and that the claims of the secured trade creditors of the seller do not exceed a total of \$2,500 and the buyer has no notice that the claims of the unsecured trade creditors of the seller exceed a total of \$2,500 and that the claims of the secured trade creditors of the seller exceed a total of \$2,500; or
- (b) if the seller delivers a statement verified by his affidavit showing that the claims of all unsecured trade creditors and all secured trade creditors of the seller of which the buyer has notice have been paid in full; or
- (c) if adequate provision has been made for the immediate payment in full of all claims of the unsecured trade creditors of the seller of which the buyer has notice and of all claims of secured trade creditors of the seller which are or become due and payable upon completion of the sale of which the buyer has notice, so long as their claims are paid in full forthwith after completion of the sale, but where any such creditor has delivered a waiver (Form 2) no provision need be made for the immediate payment of his claim. 1959, c. 9, s. 9 (1); 1960, c. 6, s. 4 (1-3).

Idem

(2) Where the buyer has received the statement mentioned in section 4, he may pay or deliver the proceeds of the sale to the trustee and thereupon acquire the property of the seller in the stock in bulk, if the seller delivers to the buyer,

- (a) the consent to the sale (Form 3) of unsecured trade creditors of the seller representing not less than 60 per cent in number and amount of the claims that exceed \$50 of all the unsecured trade creditors of the seller of whose claims the buyer has notice; and
- (b) an affidavit of the seller deposing that he delivered or caused to be delivered to all of his unsecured trade creditors and secured trade creditors personally or by registered mail addressed to them at their last known addresses at least fourteen days before the date fixed for the completion of the sale copies of the contract of the sale in bulk, the statement

mentioned in subsection 1 of section 4, and the statement of affairs (Form 4), and deposing that the affairs of the seller as disclosed in the statement of affairs have not materially changed since it was made. 1959, c. 9, s. 9 (2); 1960, c. 6, s. 4 (4).

(3) Duplicate originals of the documents mentioned in Documents clause *b* of subsection 2 shall be attached as exhibits to the ^{to be}exhibited affidavit mentioned therein. 1959, c. 9, s. 9 (3).

9.—(1) Where a sale in bulk is being completed under Appointment of trustee subsection 2 of section 8, a trustee shall be appointed,

(a) by the seller with the consent (Form 3) of his unsecured trade creditors representing not less than 60 per cent in number and amount of the claims that exceed \$50 of the unsecured trade creditors as shown by the statement mentioned in section 4; or

(b) by a judge upon the application of any person interested where the unsecured trade creditors of the seller representing not less than 60 per cent in number and amount of the claims that exceed \$50 as shown by the statement mentioned in section 4 have consented to the sale in bulk but have not consented to the appointment of a trustee, or where the trustee appointed under clause *a* is unable or unwilling to act.

(2) Every trustee shall forthwith give security in cash or Security by bond of a guarantee company satisfactory to a judge for the due accounting for all property received by him as trustee and for the due and faithful performance of his duties, and the security shall be deposited with the clerk of the court and shall be given in favour of the creditors generally and may be enforced by any succeeding trustee or by any one of the creditors on behalf of all by direction of the judge and the amount of the security may be increased or decreased by the judge at any time. 1959, c. 9, s. 10.

10. Where a sale in bulk is completed under subsection 2 When proceeds of sale to be paid over to trustee of section 8,

(a) the seller shall deliver to the trustee a statement verified by the affidavit of the seller showing the names and addresses of all creditors of the seller and the amount of the indebtedness or liability due, owing, payable or accruing due, or to become due and payable by the seller to each of them; and

- (b) the seller shall pay to the trustee all moneys received by him from the buyer on account of the purchase price under section 6; and
- (c) the buyer shall pay or deliver the balance of the proceeds of the sale to the trustee. 1959, c. 9, s. 11.

Filings on completion of sale

11.—(1) Within five days after the completion of a sale in bulk, the buyer shall file in the office of the clerk of the court an affidavit setting out the particulars of the sale, including the subject-matter thereof and the name and address of the trustee, if any, and exhibiting duplicate originals of the statement mentioned in section 4, the statement, if any, mentioned in clause *b* of subsection 1 of section 8, the waivers, if any, mentioned in clause *c* of subsection 1 of section 8 and the consent and affidavit, if any, mentioned in subsection 2 of section 8.

Fees

(2) For services rendered in connection with the filings required by subsection 1, the clerk of the court is entitled to the following fees:

1. For filing affidavit.....	\$1.00
2. For a search.....	.50
3. For a certificate of filing of affidavit.....	.50
4. For copies of affidavit and certifying the same, for every 100 words.....	.20
5. For production and inspection of affidavit..	.10

1960, c. 6, s. 5 (1)

Failure to file

- (3) If the buyer fails to comply with subsection 1, a judge may at any time,
- (a) upon the application of the trustee or a creditor, order the buyer to comply therewith; or
 - (b) upon the application of the buyer, extend the time for compliance therewith; or
 - (c) upon the application of the buyer after the lapse of one year from the date of the completion of the sale in bulk and upon being satisfied that the claims of all unsecured trade creditors and secured trade creditors of the seller existing at the time of the completion

of the sale have been paid in full and that no action or proceeding is pending to set aside the sale or to have the sale declared void and that the application is made in good faith and not for any improper purpose, make an order dispensing with compliance therewith. 1959, c. 9, s. 12 (2); 1960, c. 6, s. 5 (2).

12.—(1) Where the proceeds of the sale are paid or delivered to a trustee under section 10, the trustee is a trustee for the general benefit of the creditors of the seller and he shall distribute the proceeds of the sale among the creditors of the seller, and, in making the distribution, all creditors' claims shall be proved in like manner and are subject to like contestation before a judge and, subject to section 13, are entitled to like priorities as in the case of a distribution under the *Bankruptcy Act* (Canada), as amended or re-enacted from time to time, and shall be determined as of the date of the completion of the sale.

Distribution
of proceeds
of sale

R.S.C. 1952,
c. 14

(2) Before making the distribution, the trustee shall cause a notice thereof to be published in at least two issues of a newspaper having general circulation in the locality in which the stock in bulk was situated at the time of the sale, and the trustee shall not make the distribution until at least fourteen days after the last of such publications.

Notice

(3) Upon notice to the trustee within thirty days after the date of the filing of the documents mentioned in section 11 that a petition for a receiving order against the seller has been filed, the trustee shall not distribute the proceeds of the sale until the final disposition of the petition and, where a receiving order is made pursuant to the petition, the trustee shall pay the proceeds of the sale, after deducting therefrom his fee and disbursements, to the trustee appointed by the receiving order.

Petition
for
receiving
order

13. Nothing in this Act affects the rights of any municipality under *The Assessment Act*. 1959, c. 9, s. 14.

Municipal
rights
preserved
R.S.O. 1960,
c. 23

14.—(1) Subject to subsection 3, the fee of the trustee shall be as follows:

Fee of
trustee

- 1. Where the proceeds of the sale do not exceed \$5,000..... \$ 250
- 2. Where the proceeds of the sale exceed \$5,000 but do not exceed \$25,000..... 250
plus 3 per cent of the amount by which the proceeds of the sale exceed \$5,000

3. Where the proceeds of the sale exceed \$25,000 but do not exceed \$100,000..... \$ 850
plus 2 per cent of the amount by which
the proceeds of the sale exceed \$25,000
4. Where the proceeds of the sale exceed \$100,000..... 2,350
plus 1 per cent of the amount by which
the proceeds of the sale exceed \$100,000

Idem

(2) In the absence of an arrangement between the seller and the trustee to the contrary, the fee, together with any disbursements made by the trustee, shall be deducted by him from the moneys to be paid to the creditors.

Idem

(3) Where the proceeds of the sale exceed the amount required to pay in full all indebtedness of the seller to his creditors, the fee of the trustee together with any disbursement made by the trustee shall be deducted by him from the excess proceeds to the extent of that excess, and any sum remaining unpaid thereafter shall be paid as provided in subsection 1. 1959, c. 9, s. 15.

Who may
make
affidavits

15.—(1) Any affidavit required to be made under this Act by a seller,

- (a) if the seller is a partnership, shall be made severally by all of the partners; or
- (b) if the seller is a corporation, shall be made by an officer or director of the corporation and shall state that the deponent has a personal knowledge of the facts deposed to. 1959, c. 9, s. 16.

(2) Upon the application of a seller and upon being satisfied that good and sufficient cause exists that any affidavit required to be made under this Act should be made otherwise than under subsection 1, a judge may order accordingly. 1960, c. 6, s. 6.

Effect of
buyer
failing to
comply
with Act

16.—(1) A sale in bulk is voidable unless the buyer has complied with this Act.

Personal
liability
of buyer

(2) If a sale in bulk has been set aside or declared void and the buyer has received or taken possession of the stock in bulk, he is personally liable to account to the creditors of the seller for the value thereof, including all moneys, security or property realized or taken by him from, out of, or on account of, the sale or other disposition by him of the stock in bulk. 1960, c. 6, s. 7.

17.—(1) An action or proceeding to set aside or have declared void a sale in bulk may be brought or taken by a creditor of the seller, and, if the seller is adjudged bankrupt, by the trustee of his estate. 1959, c. 9, s. 18.

(2) No action shall be brought or proceeding taken in respect of real property included in a sale in bulk if the real property has been sold, transferred, charged or mortgaged to a *bona fide* purchaser, transferee, chargee or mortgagee for valuable consideration without actual notice of non-compliance with the Act by the buyer. 1960, c. 6, s. 8.

18. In an action or proceeding in which a sale in bulk is attacked or comes in question, whether directly or indirectly, the burden of proof that this Act has been complied with is upon the person upholding the sale in bulk. 1959, c. 9, s. 19.

19. No action shall be brought or proceeding taken to set aside or have declared void a sale in bulk for failure to comply with this Act unless the action is brought or the proceeding is taken either before the documents are filed under section 11 or within six months after the date on which the documents were filed under section 11. 1960, c. 6, s. 9.

FORM 1

(Section 4 (1))

The Bulk Sales Act

STATEMENT AS TO SELLER'S CREDITORS

Statement showing names and addresses of all unsecured trade creditors and secured trade creditors of

of the of in the of and the amount of the indebtedness or liability due, owing, payable or accruing due or to become due by him to each of them.

UNSECURED TRADE CREDITORS

Name of Creditor	Address	Amount

SECURED TRADE CREDITORS

Name of Creditor	Address	Amount	Nature of Security	Due or becoming due on the date fixed for the completion of the sale

I,, of the of, in the of,, make oath and say:

1. That the foregoing statement is a true and correct statement

- (a) of the names and addresses of all the unsecured trade creditors of the said and of the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the said to each of the said unsecured trade creditors; and
- (b) of the names and addresses of all the secured trade creditors of the said and of the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the said to each of the said secured creditors, the nature of their security, and whether they are or in the event of sale will become due and payable on the date fixed for the completion of the sale.

(and, if the seller is a corporation)

2. That I am of the Corporation, and have personal knowledge of the facts herein deposed to.

SWORN before me, etc.

FORM 2

(Section 8 (1) (c))

The Bulk Sales Act

WAIVER

In the matter of the sale in bulk

BETWEEN

Seller

— and —

Buyer

I,, of the of,
in the of, a secured
an unsecured trade
creditor of the above-named seller, hereby waive the provisions of *The Bulk Sales Act*
that require that adequate provision be made for the immediate payment in full
of my claim forthwith after completion of the sale, and I hereby acknowledge and agree
that the buyer may pay or deliver the proceeds of the sale to the seller and thereupon
acquire the property of the seller in the stock without making provision for the
immediate payment of my claim and that any right to recover payment of my claim
may, unless otherwise agreed, be asserted against the seller only.

DATED at this day of, 19...

Witness:

|

FORM 3

(Sections 8 (2) (a) and 9 (1) (a))

The Bulk Sales Act

CONSENT

In the matter of the sale in bulk

BETWEEN:

Seller

— and —

Buyer

I,, of the of
 in the of, an unsecured trade creditor of the
 above named seller, hereby acknowledge and agree:

1. that I have received,

(a) a copy of the statement showing the names and addresses of the
 unsecured trade creditors and the amount of the indebtedness or
 liability due, owing, payable or accruing due or to become due and
 payable by the seller, and showing the names and addresses of his
 secured trade creditors, the nature of their security and whether their
 claims are or, in the event of sale, become due on the date fixed for
 completion of the sale, and the amount of the indebtedness or liability
 due, or owing, payable or accruing due or to become due and payable
 by the seller;

(b) a statement of the affairs of the seller; and

(c) a copy of the contract of the sale in bulk;

2. that I consent to the sale; and

3. that I consent to the appointment of as trustee.

DATED at, this day of, 19....

Witness:

|

FORM 4

(Section 8 (2) (b))

The Bulk Sales Act

STATEMENT OF AFFAIRS

Assets included in the Sale in Bulk

(a) Amount of the proceeds of the sale..... \$.....

Assets not included in the Sale in Bulk

(b) Stock-in-trade at cost price not exceeding fair value \$.....

(c) Trade fixtures, fittings, utensils, etc..... \$.....

(d) Book debts—Good.....\$.....

Doubtful.....\$.....

Bad.....\$.....

Estimated to produce.....\$.....

(e) Bills of exchange, promissory notes, etc..... \$.....

(f) Cash in bank..... \$.....

(g) Cash on hand..... \$.....

(h) Livestock..... \$.....

(i) Machinery, equipment and plant..... \$.....

(j) Real estate..... \$.....

(k) Estimated value of securities in hands of secured

creditors..... \$.....

(l) Furniture..... \$.....

(m) Life insurance policies..... \$.....

(n) Stocks and bonds..... \$.....

(o) Interest in estates..... \$.....

(p) Other property, viz..... \$.....

Total..... \$.....

Liabilities

(q) Unsecured trade creditors..... \$.....

(r) Secured trade creditors..... \$.....

(s) Preferred creditors..... \$.....

(t) All other liabilities, except contingent liabilities set

out below..... \$.....

Total..... \$.....

Surplus or deficiency.....\$.....

Contingent Liabilities

(u) Liabilities under endorsements and guarantees.... \$.....

(v) All other contingent liabilities..... \$.....

Total..... \$.....

I,, of the of

in the of, make oath and say that the above statement is to the best of my knowledge and belief a full, true and complete statement of my affairs on the day of, 19...., (which date shall not be more than 30 days before the date of the affidavit) and fully discloses all my property of every description.

SWORN before me, etc.

CHAPTER 44

The Business Records Protection Act

1. No person shall, pursuant to or under or in a manner that would be consistent with compliance with any requirement, order, direction or subpoena of any legislative, administrative or judicial authority in any jurisdiction outside Ontario, take or cause to be taken, send or cause to be sent or remove or cause to be removed from a point in Ontario to a point outside Ontario, any account, balance sheet, profit and loss statement or inventory or any resume or digest thereof or any other record, statement, report or material in any way relating to any business carried on in Ontario, unless such taking, sending or removal, Business records not to be taken from Ontario

- (a) is consistent with and forms part of a regular practice of furnishing to a head office or parent company or organization outside Ontario material relating to a branch or subsidiary company or organization carrying on business in Ontario;
- (b) is done by or on behalf of a company or person as defined in *The Securities Act*, carrying on business in Ontario and as to a jurisdiction outside Ontario in which the securities of the company or person have been qualified for sale with the consent of the company or person; R.S.O. 1960, c. 363
- (c) is done by or on behalf of a company or person as defined in *The Securities Act*, carrying on business in Ontario as a broker, broker-dealer, investment dealer or salesman as defined in *The Securities Act*, and as to a jurisdiction outside Ontario in which the company or person has been registered or is otherwise qualified to carry on business as a broker, broker-dealer, investment dealer or salesman, as the case may be; or
- (d) is provided for by or under any law of Ontario or of the Parliament of Canada. R.S.O. 1950, c. 44, s. 1.

2.—(1) Where the Attorney General or any person having an interest in a business as mentioned in section 1 has reason Undertaking and recognition

to believe that a requirement, order, direction or subpoena as mentioned in section 1 has been or is likely to be made, issued or given in relation to such business, he may apply to a judge or local judge of the Supreme Court in chambers for an order requiring any person, whether or not such person is named in the requirement, order, direction or subpoena, to furnish an undertaking and recognizance for the purpose of ensuring that such person will not contravene section 1 and the judge may make such order as he deems proper.

Contempt
of court

(2) Every person who, having received notice of an application under this section, contravenes this Act shall be deemed to be in contempt of court and liable to one year's imprisonment.

Idem

(3) Every person required to furnish an undertaking or recognizance who contravenes this Act is in contempt of court and in addition to any penalty provided by the recognizance is liable to one year's imprisonment. R.S.O. 1950, c. 44, s. 2.

Procedure

3. The practice and procedure of the Supreme Court applies to every application made under this Act. R.S.O. 1950, c. 44, s. 3.

CHAPTER 45

The Cancer Act

PART I

THE ONTARIO CANCER TREATMENT
AND RESEARCH FOUNDATION

1. The corporation known as The Ontario Cancer Treatment and Research Foundation, referred to in this Act as ^{continued} "the Foundation", is continued. 1957, c. 6, s. 1.

2.—(1) The Foundation shall consist of not fewer than ^{Members} seven members who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may fill any ^{Vacancies} vacancies that occur from time to time in the membership of the Foundation. 1957, c. 6, s. 2 (1, 2).

(3) Five of the members of the Foundation constitute a ^{Quorum} quorum for the transaction of business. 1958, c. 7, s. 1.

3.—(1) The Lieutenant Governor in Council may appoint ^{Chairman,} one of the members to be chairman of the Foundation and ^{vice-} ^{chairman} another of the members to be vice-chairman of the Foundation.

(2) The chairman shall preside at all meetings of the ^{Presiding} Foundation at which he is present and in his absence the ^{officer} vice-chairman shall preside and in the absence of both the chairman and the vice-chairman the members present shall elect one of themselves to preside. 1957, c. 6, s. 3.

4. Subject to the approval of the Lieutenant Governor ^{Advisory} in Council, the Foundation may appoint an advisory medical ^{medical} board consisting of such persons representative of the medical ^{board} faculties of the University of Toronto, Queen's University, The University of Western Ontario and the Université d'Ottawa, and of radio-therapists, surgeons, pathologists, internists, physicists and the medical profession generally as the Foundation considers appropriate. 1957, c. 6, s. 4.

Object

5. The object of the Foundation is to establish and conduct a programme of research, diagnosis and treatment in cancer, including,

- (a) the establishment, maintenance and operation of research, diagnostic and treatment centres in general hospitals or elsewhere;
- (b) the transportation of patients and escorts to its treatment centres or to the hospital of the Institute for diagnosis, treatment or investigation;
- (c) the establishment, maintenance and operation of hostels in connection with its treatment centres or the hospital of the Institute;
- (d) the laboratory and clinical investigation of cancer problems;
- (e) the co-ordination of facilities for treatment;
- (f) the adequate reporting of cases and the recording and compilation of data;
- (g) the education of the public in the importance of early recognition and treatment;
- (h) the providing of facilities for under-graduate and post-graduate study;
- (i) the training of technical personnel; and
- (j) the providing and awarding of research fellowships. 1957, c. 6, s. 5.

Agreements

6. Subject to the approval of the Lieutenant Governor in Council, the Foundation may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out the object of the Foundation. 1957, c. 6, s. 6.

Staff

7. The Foundation may employ a director and officers, clerks and servants and may engage the services of experts and other persons and may pay such director, officers, clerks, servants, experts or other persons such remuneration as it deems proper out of its funds. 1957, c. 6, s. 7.

By-laws

8. Subject to the approval of the Lieutenant Governor in Council, the Foundation may make such by-laws, rules or

regulations as are deemed expedient for the administration of its affairs. 1957, c. 6, s. 8.

9. The funds of the Foundation consist of moneys received ^{Funds} by it from any source including moneys appropriated for its use by the Parliament of Canada or the Legislature of Ontario, and the Foundation may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it deems proper. 1957, c. 6, s. 9.

10. The members of the Foundation and its medical ^{Expenses} advisory board shall be paid such amounts for travelling and other expenses as the Foundation, subject to the approval of the Lieutenant Governor in Council, may determine from time to time. 1957, c. 6, s. 10.

11. The accounts of the Foundation shall be audited ^{Audit} annually by the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the Foundation. 1957, c. 6, s. 11.

12.—(1) The Foundation shall after the close of each ^{Annual report} fiscal year make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Foundation during the preceding year.

(2) The Minister of Health shall file the report with the ^{Idem} Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1957, c. 6, s. 12.

13.—(1) Subject to the approval of the Lieutenant ^{Power to expropriate land and erect buildings} Governor in Council, the Foundation may acquire by purchase or lease, or may enter upon, take and use without the consent of the owner thereof, any land and buildings that are deemed suitable for the purposes of the Foundation and may erect buildings, acquire and install machinery and equipment and purchase all such instruments, materials and appliances and other matters and things that are deemed necessary.

(2) Whenever the Foundation exercises the power to enter ^{Application of} upon, take or use lands without the consent of the owner ^{R.S.O. 1960, c. 338} thereof, *The Public Works Act* applies *mutatis mutandis* and the procedure shall be, as nearly as may be, that provided

in that Act where land is taken for the use of the Province. 1957, c. 6, s. 13.

Right to
acquire
patents,
etc.

14. Subject to the approval of the Lieutenant Governor in Council, the Foundation may apply for, or acquire by purchase, assignment or otherwise, rights in any patent relating to any remedy for the prevention or cure of cancer and may sell and dispose thereof or of any interest therein, and grant or assign any rights that have been acquired by the Foundation thereunder. 1957, c. 6, s. 14.

Property
not liable
to assess-
ment

15. The real and personal property, business and income of the Foundation is not subject to taxation for municipal or provincial purposes. 1957, c. 6, s. 15, *amended*.

PART II

THE ONTARIO CANCER INSTITUTE

Institute
continued

16. The corporation known as The Ontario Cancer Institute, referred to in this Act as "the Institute", is continued. 1957, c. 6, s. 16.

Members

17.—(1) The Institute shall consist of twelve persons appointed by the Lieutenant Governor in Council, namely,

- (a) five persons representing the Foundation, one of whom shall be the chairman of the Foundation;
- (b) two persons representing The Governors of the University of Toronto;
- (c) one person representing the Board of Trustees of the Toronto General Hospital;
- (d) one person representing the Board of Trustees of The Hospital for Sick Children;
- (e) one person representing the governing body of St. Michael's Hospital;
- (f) one person representing the Board of Governors of The Toronto Western Hospital;
- (g) one person representing the Board of Governors of the Women's College Hospital,

who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may fill any ^{Vacancies} vacancies that occur from time to time in the membership of the Institute in accordance with the method of representation prescribed in this section. 1957, c. 6, s. 17 (1, 2).

(3) Five of the members of the Institute constitute a ^{Quorum} quorum for the transaction of business. 1958, c. 7, s. 2.

18. The Lieutenant Governor in Council may appoint one ^{Chairman} chairman of the representatives of the Foundation as chairman of the Institute. 1957, c. 6, s. 18.

19. Subject to the approval of the Lieutenant Governor in ^{Advisory} Council, the Institute may appoint an advisory medical ^{medical} board consisting of some or all of the members of the medical ^{board} advisory board of the Foundation. 1957, c. 6, s. 19.

20. The object of the Institute is to maintain, manage ^{Object} and operate a provincial hospital with facilities for cancer research, diagnosis and treatment. 1957, c. 6, s. 20.

21. Subject to the approval of the Lieutenant Governor ^{Agreements} in Council, the Institute may make agreements with the Foundation, universities, medical associations, hospitals and persons for the purpose of carrying out the object of the Institute. 1957, c. 6, s. 21.

22. The Institute may employ a director and such ^{Staff} staff as may from time to time be required for the purposes of the hospital and may pay such director and staff such remuneration as it deems proper of its funds. 1957, c. 6, s. 22.

23. Subject to the approval of the Lieutenant Governor ^{By-laws} in Council, the Institute may make such by-laws, rules or regulations as are deemed expedient for the administration of its affairs. 1957, c. 6, s. 23.

24.—(1) The funds of the Institute consist of moneys ^{Funds} received by it from any source, including the Foundation, and the Institute may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it deems proper.

(2) The Institute shall annually prepare and submit to ^{Estimates} the Foundation the estimates of the moneys required for its purposes during the ensuing fiscal year. 1957, c. 6, s. 24.

Expenses

25. The members of the Institute and its medical advisory board shall be paid such amounts for travelling and other expenses as the Institute, subject to the approval of the Lieutenant Governor in Council, determines from time to time. 1957, c. 6, s. 25.

Audit

26. The accounts of the Institute shall be audited annually by the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the Institute. 1957, c. 6, s. 26.

Annual
report

27.—(1) The Institute shall after the close of each fiscal year make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Institute during the preceding year.

Idem

(2) The Minister of Health shall file the report with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1957, c. 6, s. 27.

Property
not liable
to assess-
ment

28. The real and personal property, business and income of the Institute is not subject to taxation for municipal or provincial purposes. 1957, c. 6, s. 28, *amended*.

CHAPTER 46

The Cancer Remedies Act

1. In this Act,

Interpre-
tation

- (a) "Commission" means The Commission for the Investigation of Cancer Remedies;
- (b) "Minister" means the Minister of Health. R.S.O. 1950, c. 45, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint one or more persons as a commission known as "The Commission for the Investigation of Cancer Remedies".

Commis-
sion,
appoint-
ment

(2) The Commission is a body corporate.

Status

(3) The member or members of the Commission shall hold office during the pleasure of the Lieutenant Governor in Council.

Term of
office

(4) Where there is more than one member of the Commission,

Chairman;
quorum

- (a) the Lieutenant Governor in Council may appoint one of the members of the Commission to be chairman;
- (b) a majority of the members of the Commission constitutes a quorum and a majority vote of the members present at any meeting of the Commission determines any question. R.S.O. 1950, c. 45, s. 2.

3.—(1) The objects of the Commission are to investigate, approve, disapprove, encourage or report upon any substance or method of treatment that is believed to be, or likely to be, or is advertised, held out to be or used as a remedy for cancer, and the Commission may take such measures as it deems necessary to accomplish its objects.

Objects

(2) The funds of the Commission consist of the moneys received by it from any source, including the moneys appropriated for its use by the Parliament of Canada, the Legislature, or the King George V Silver Jubilee Cancer Fund, and the Commission may disburse, expend or otherwise deal with any of its funds as it deems proper.

Funds

Commission
may enter
into agree-
ments

(3) Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into agreements with any university, medical association, hospital or other association, corporation or person for the purpose of carrying out its objects.

Officers,
clerks and
servants

(4) The Commission may employ officers, clerks and servants and may engage the services of experts and other persons and may pay any such officer, clerk, servant, expert or other person such remuneration as it deems proper out of its funds.

Remunera-
tion of
members of
Commission

(5) The members of the Commission shall be paid such remuneration out of its funds as the Lieutenant Governor in Council determines. R.S.O. 1950, c. 45, s. 3.

Commission
to furnish
financial
statement

4. The Minister may require the Commission to furnish him with a financial statement showing all moneys received and disbursed by it and may require the Provincial Auditor or any other qualified auditor to conduct an audit of its funds and the cost of such audit shall be paid out of its funds. R.S.O. 1950, c. 45, s. 4.

Submission
of samples
of treatment

5.—(1) The Commission may require any person who advertises, offers for sale, holds out, distributes, sells or administers either free of charge or for gain, hire or hope of reward, any substance or method of treatment as a remedy for cancer to submit samples of such substance or a description of such treatment and samples of any substance used with such treatment to the Commission together with the formula of such substance and such other information pertaining to such substance or method of treatment as the Commission determines.

Information
not to be
divulged

(2) The Commission shall not divulge any information relating to the composition or formula of any substance received by it, except to a person authorized by it to investigate the substance.

Oath of
secrecy

(3) The Commission may administer an oath in such form and manner as it determines, binding any such person not to divulge information furnished to him. R.S.O. 1950, c. 45, s. 5.

Investigation
of
treatment

6. Where a substance or method of treatment is submitted to the Commission under section 5, the Commission shall cause the substance or method of treatment to be investigated and, upon the conclusion of the investigation, shall make a determination or finding as to merit or value as a remedy for cancer of the substance or method of treatment, but the

Commission may at any time before concluding its investigation make such determination or finding of a temporary nature as it deems proper, and every determination or finding of the Commission shall be recorded in its minutes. R.S.O. 1950, c. 45, s. 6.

7. The Commission shall make a report of any determination or finding relating to a substance or method of treatment, ^{Reports}

(a) to the Minister; and

(b) to the person who submitted the substance or method to the Commission for investigation,

and the Minister may publish the report in such manner as he deems proper. R.S.O. 1950, c. 45, s. 7.

8. No action in libel or slander or otherwise lies or shall be instituted against the Minister, the Commission, any member of the Commission or any officer, clerk or servant employed by the Commission or any expert or other person engaged by the Commission, whether in the public or private capacity of the Minister, member, officer, clerk, servant, expert or other person, in respect of any act or omission in connection with the administration or carrying out of this Act. R.S.O. 1950, c. 45, s. 8. ^{Action against Commission}

9. Every person who contravenes any of the provisions of this Act or who fails or neglects to obey any order, direction or requirement of the Commission is guilty of an offence and for a first offence is liable on summary conviction to a fine of not less than \$100 and not more than \$500, and for any subsequent offence is liable on summary conviction to a fine of not less than \$500 and not more than \$2,500. R.S.O. 1950, c. 45, s. 9, *amended*. ^{Offence}

CHAPTER 47

The Cemeteries Act**1. In this Act,**Interpre-
tation

- (a) "Cemeteries Advisory Board" means the advisory board heretofore established under the regulations made under a predecessor of this Act;
- (b) "cemetery" means land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried;
- (c) "columbarium" means a structure designed for the purpose of storing the ashes of human remains that have been cremated;
- (d) "crematorium" means a building fitted with the proper appliances for the purpose of the cremation of human remains, and includes everything incidental or ancillary thereto;
- (e) "Department" means the Department of Health;
- (f) "inspector" means an inspector designated under this Act;
- (g) "local board" means the local board of health of a municipality in which it is proposed to establish or in which there is a cemetery;
- (h) "mausoleum" means a building or other structure used as a place for the interment of the dead in sealed crypts or compartments;
- (i) "Minister" means the Minister of Health;
- (j) "owner" means a person who owns, controls or manages a cemetery, mausoleum or columbarium;
- (k) "perpetual care" means the preservation, improvement, embellishment and maintenance in perpetuity in a proper manner of lots and plots in a cemetery or of compartments in a mausoleum or columbarium;

(*l*) "perpetual care funds" means the funds and property received by an owner for the purpose of providing perpetual care generally of a cemetery, mausoleum or columbarium or of any particular part thereof;

(*m*) "regulations" means the regulations made by the Lieutenant Governor in Council under this Act. R.S.O. 1950, c. 46, s. 1; 1954, c. 6, s. 1; 1957, c. 7, s. 1.

Inspectors

2. The Minister may designate one or more officers of the Department to be inspectors for the purposes of this Act and the regulations with such powers and duties as the regulations prescribe. 1954, c. 6, s. 2, *part*.

Cemeteries
Advisory
Board

3. The Lieutenant Governor in Council may make regulations respecting the Cemeteries Advisory Board and prescribing its powers and duties. 1954, c. 6, s. 2, *part*.

Conflict with
provisions
in other Acts

4. Where the provisions of a general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. 1954, c. 6, s. 2, *part*.

Establish-
ment of
cemeteries,
etc.

5. No cemetery shall be established or enlarged, and no crematorium, columbarium or mausoleum shall be established, enlarged, altered or used, until the approval of the Department has been obtained in the manner hereinafter provided. 1960, c. 7, s. 1.

Application
and
material

6. An application for such approval shall be made in writing to the council of the municipality, and the applicant shall submit therewith a detailed plan and description in duplicate of the land proposed to be acquired or used for cemetery, crematorium, columbarium or mausoleum purposes, together with such other information as the regulations require. R.S.O. 1950, c. 46, s. 3; 1957, c. 7, s. 2; 1960, c. 7, s. 2.

Transmission
to
Department

7. The application and one of the duplicates of the plan and description of the land and all other material filed with the application shall be transmitted to the Department together with a statement of the opinion of the council of the municipality thereon. R.S.O. 1950, c. 46, s. 4; 1957, c. 7, s. 3.

Amount for
perpetual
care

8. No application for the establishment or enlargement of a cemetery to be operated for gain or profit shall be approved unless the owner has set aside for perpetual care the amount prescribed by the regulations. 1957, c. 7, s. 4, *part*.

9.—(1) The approval of the Department shall be by order ^{Approval} in writing signed by the Minister or Deputy Minister and shall contain a sufficient description of the cemetery, crematorium, columbarium or mausoleum proposed to be established or of the land that is to be annexed to it.

(2) The order may be registered in the proper registry or ^{Registration} land titles office, and upon its registration the cemetery, crematorium, columbarium or mausoleum may be established or enlarged as the order directs.

(3) The approval of the Department may be revoked by ^{Revocation of approval} an order in writing signed by the Minister or Deputy Minister, and thereafter the land mentioned in the order shall not be used for the interment of the dead until a further approval has been issued. R.S.O. 1950, c. 46, ss. 5, 59 *part, amended*.

10. No cemetery that is to be operated for gain or profit ^{Approval to inter} shall be used for the interment of the dead until approval of the Department therefor has been obtained. 1957, c. 7, s. 4, *part*.

11. Every person who establishes, enlarges or uses a ^{Offence} cemetery, or who establishes, enlarges, alters or uses a crematorium, columbarium or mausoleum, without the approval of the Department, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. R.S.O. 1950, c. 46, ss. 6, 59 *part, amended*.

12. The expenses of the Department shall be paid by the ^{Expenses} applicant. R.S.O. 1950, c. 46, s. 7.

13.—(1) No person shall offer for sale or sell lots in a ^{Licensing of salesmen} cemetery unless,

(a) he is licensed so to do under the regulations; and

(b) the provisions of the sale contracts have been approved by the Minister.

(2) This section does not apply in respect of the sale ^{Exemption} of lots in a cemetery or class of cemetery exempt therefrom under the regulations. 1954, c. 6, s. 2, *part*.

14. The provisions of this Act designated by the regu- ^{Application of designated provisions to crematoria, etc.} lations apply *mutatis mutandis* to crematoria, columbaria and mausolea. 1960, c. 7, s. 3.

Regulations

15.—(1) The Lieutenant Governor in Council may make regulations,

- (a) respecting the burial, disinterment, removal and disposal of the bodies or other remains of deceased persons;
- (b) respecting the plans, surveys, arrangement, condition, care, sale and conveyancing of lots, plots and other cemetery grounds and property;
- (c) respecting the erection, arrangement and removal of tombs, vaults, monuments, gravestones, markers, copings, fences, hedges, shrubs, plants and trees in cemeteries;
- (d) fixing the amount and type of bond or insurance that shall be furnished or carried by persons selling cemetery lots;
- (e) requiring owners of cemeteries to permit the planting, installation and erection of cemetery supplies by owners of lots and such other persons and upon such conditions as the regulations prescribe;
- (f) defining cemetery services and cemetery supplies for the purposes of the regulations;
- (g) governing and regulating the charges for the sale and care of lots and for cemetery services and supplies;
- (h) regulating or restricting or prohibiting the sale or offering for sale of cemetery lots and prescribing the method, manner and conditions under which cemetery lots may be sold or offered for sale;
- (i) respecting the collection, amounts to be collected and investment of funds for perpetual care and maintenance of cemeteries;
- (j) requiring the filing or registration of plans of cemeteries and prescribing the contents and details of the plans and requiring that burials be made in accordance with the plan;
- (k) requiring that the by-laws, rules or regulations made by the owners of cemeteries be approved by the Minister;
- (l) requiring information with regard to cemeteries and the care and management thereof to be furnished to the Minister;

- (m) requiring cemetery owners to supply financial and other information prescribed by the regulations to owners of cemetery lots and such other persons as the regulations prescribe;
- (n) prescribing the amount of money that shall be set aside for perpetual care by the owner, and regulating the method and manner of the computation of the amount of money so to be set aside, and prescribing the matters or things in and about the cemetery, columbarium or mausoleum upon which the owner may expend the income from perpetual care funds;
- (o) requiring and prescribing records in connection with the establishment, maintenance and operation of cemeteries to be kept by owners, and prescribing the times at which the records shall be submitted to the Minister and the information that shall accompany the records;
- (p) prescribing the powers and duties of inspectors;
- (q) requiring the licensing of persons who offer for sale or sell lots in a cemetery and prescribing the terms and conditions upon which a licence may be issued, the fees payable therefor, the form and term thereof, and the terms and conditions upon which any such licence may be renewed, suspended or revoked;
- (r) exempting any cemetery, mausoleum or columbarium or any class thereof from the application of section 13, 27, 28 or 29, and any cemetery that is not operated for gain from any other provisions of this Act, and prescribing the conditions under which such cemetery, mausoleum or columbarium or any class thereof shall be exempt therefrom, and any such regulation may have a retroactive effect;
- (s) classifying cemeteries, mausolea and columbaria; and
- (t) designating the provisions of this Act that shall apply *mutatis mutandis* to crematoria, columbaria and mausolea,

and any such regulation may be general in its application or may be made applicable specially to any particular locality or cemetery. R.S.O. 1950, c. 46, s. 8 (1); 1953, c. 12, s. 1; 1954, c. 6, s. 3; 1957, c. 7, s. 5, *amended*; 1960, c. 7, s. 4.

Offence

(2) Every person who contravenes any of the provisions of the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for a first offence and not more than \$500 for any subsequent offence. R.S.O. 1950, c. 46, s. 8 (2).

Powers and
duties of
local boards

16.—(1) It is the duty of the local board and it has power,

- (a) to enter into and upon and to visit and inspect any cemetery within the limits of the municipality and to examine and inquire into the condition of the cemetery;
- (b) to see that the provisions of this Act and the regulations are observed and to enforce their observance by prosecution for the penalties imposed by this Act;
- (c) to call for and collect such statistical and other information as the Department requires with regard to cemeteries and the care and management thereof;
- (d) to report to the Department from time to time upon the enforcement and administration of this Act;
- (e) to see that every cemetery is properly fenced, kept clear of weeds and otherwise cared for in a proper manner and in accordance with this Act and the regulations.

Delegation
of power

(2) Any of the powers conferred upon a local board by subsection 1 may be delegated to any person by the local board.

Exemption
of certain
cemeteries

(3) Where the Lieutenant Governor in Council is of opinion that a cemetery is being supervised and managed in a proper manner by a municipal council, board of park management or cemetery board, he may exempt it from any of the provisions of this section. R.S.O. 1950, c. 46, s. 9.

Payment for
services

17. The treasurer of the municipality shall forthwith upon demand pay the amount of any account for services performed under the direction of the local board or for any expenditure incurred by or on behalf of the local board in carrying out the provisions of this Act or the regulations, after the board has by resolution approved the account and after a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer. R.S.O. 1950, c. 46, s. 10.

18. In territory without municipal organization, any of ^{Unorganized territory} the powers conferred upon a local board by this Act may be exercised by the Department, any medical officer of health or any sanitary inspector. R.S.O. 1950, c. 46, s. 11.

19. The Lieutenant Governor in Council may appoint any ^{Investigation and report} person to investigate and report upon the conditions of any cemetery and the conduct of its affairs or those of any corporation or trust or individual being the owner or in control of a cemetery, and to examine and audit the books of account of any cemetery, and any person so appointed has all the powers that may be conferred upon a commissioner under *The Public R.S.O. 1960, c. 323* *Inquiries Act*. R.S.O. 1950, c. 46, s. 12.

20. All lots or plots in a cemetery when numbered and ^{Lots indivisible} conveyed as burial sites or lots are indivisible, but may afterwards be held and owned in undivided shares. R.S.O. 1950, c. 46, s. 13.

21. When a lot in a cemetery or a compartment in a ^{Registration of conveyance not necessary} mausoleum or columbarium has been sold for a burial site or for a deposit therein of human remains, it is not necessary to register the conveyance nor shall such lot or compartment be affected by any judgment, execution, mortgage or encumbrance. R.S.O. 1950, c. 46, s. 14.

22. The owner of a cemetery may repurchase any lot pre- ^{Repurchasing lots} viously sold or conveyed or any part of such lot in which no interment has been made. R.S.O. 1950, c. 46, s. 15.

23.—(1) The owner may take and hold by grant, assign- ^{Owner may accept devises, gifts, etc.} ment, devise, bequest or otherwise any money or securities and apply the same in preserving, improving and embellishing the cemetery, upon the condition and in consideration of assuming and undertaking the duty and obligation of preserving and maintaining in a proper manner in perpetuity any particular lot, tomb, monument or enclosure in the cemetery or in any other cemetery or burying ground in the same municipality or in any other municipality in the same county or district, and any person may make such grant, assignment, devise or bequest upon such condition and for such consideration.

(2) The owner may also take and hold by grant, assign- ^{Taking lots by grant, assignment or devise} ment or devise from the owner thereof any lot in the cemetery for the purpose of maintaining it in perpetuity or otherwise in the manner and subject to the provisions of the instrument of grant, assignment or devise.

May agree
to keep lots,
etc., in good
condition

(3) The owner may agree to preserve and maintain in a proper manner in perpetuity the particular lot, tomb, monument or enclosure in any cemetery designated in such grant, assignment, devise, bequest or agreement.

Payment
over of
bequest

(4) Personal representatives or trustees may pay over and transfer money or securities in their hands that they are authorized or directed to apply for or toward the purposes mentioned in this section.

Investment
of funds

(5) For the purpose of securing the due performance of such agreement, the owner shall invest the money received under the agreement in the same manner as trustees are authorized to invest trust money and out of the income of such investment perform his obligations under the agreement.

Notice to
owner of
bequest or
devise for
perpetual
care

(6) Every executor and trustee of an estate, the testator or settlor of which has provided money or other property for the care and upkeep of a plot or plots or other part of a cemetery, and the registrar of the surrogate court from which probate issues, shall notify the owner of the cemetery of the amount of money or other property so provided for the care and upkeep or other benefits conferred upon the cemetery immediately upon the issue of probate or when the executor or trustee assumes the burden of the administration of the estate.

Payment or
delivery to
owner of
property
devised for
perpetual
care

(7) The owner may call upon an executor or trustee of the estate of a testator or settlor who has bequeathed or set aside or provided any money or other property for the purpose of the upkeep or care of any lot or plot or part of a cemetery of such owner for the payment or delivery over to the owner of such money or property to be invested as hereinbefore provided, the income thereof to be used by the owner as provided in the will of the testator or instrument of the settlor, and on default the owner may take out an appointment from the surrogate judge of the county in which the cemetery is situate directing the executor or trustee to appear before him at such time and place as he appoints, and upon the hearing, pursuant to such appointment, the judge has authority to direct payment or delivery over to the owner of such money or property or make such other disposition thereof in the premises as to him seems proper in order to carry out fully the intention of the testator or settlor as set forth in his will or other instrument, and the costs of and incidental to the application are in the discretion of the judge.

Where
amount \$200
or less

(8) Where the amount of the money or the value of the property directed to be delivered over to the owner is \$200 or

less, the order may be filed in the division court of the division in which the executor, trustee or settlor resides, and, in all other cases, in the county court of the county in which the executor, trustee or settlor resides, and, when so filed, the order may be enforced in like manner as a judgment of the court in which it is filed.

(9) The owner shall not make any charge in connection with the erection of monuments, tombstones or vaults, except a reasonable charge for opening graves and constructing the foundations, or erecting monuments, tombstones or vaults where the erecting is done by the owner. Charges, what may and what may not be made by owner

(10) Where money has been deposited with a chartered bank in Ontario to provide a fund to furnish revenue by way of interest or otherwise for the perpetual upkeep of a lot, the bank may pay the money to the owner for the purposes for which it was deposited, to be dealt with according to this Act, and the owner may give an effectual release to the bank upon receiving the money. R.S.O. 1950, c. 46, s. 16. Payment of money on deposit in chartered banks

24.—(1) Where an owner sells or transfers a lot in a cemetery or a compartment in a mausoleum or columbarium, he shall set aside in trust for perpetual care, out of the amount received on the sale or transfer, such amount as the regulations prescribe. Perpetual care funds to be set aside

(2) Where the amount received on the sale or transfer is not sufficient to provide the amount prescribed by the regulations or if nothing is received on the sale or transfer, the owner shall forthwith make up the deficiency so as to provide the amount so prescribed. Deficiency in perpetual care funds

(3) Where the owner is entitled to retain perpetual care funds, he shall invest the amount so set aside or, where he is not entitled to retain perpetual care funds, he shall pay over the amount so set aside as provided in this Act. 1960, c. 7, s. 5 (1). Disposition of perpetual care funds

(4) The owner shall, out of the income of such investment, preserve and maintain in a proper manner in perpetuity all lots in the cemetery, or compartments or crypts in the mausoleum or columbarium, as the case may be, and the owner may, out of such income, preserve and maintain tombs, monuments and enclosures and such other matters or things in or about the cemetery, mausoleum or columbarium as are prescribed by the regulations. 1960, c. 7, s. 5 (2). Application of perpetual care income

Records
to be kept
by owners

25. Every owner of a cemetery shall keep such records in connection with the establishment, maintenance and operation of the cemetery as the regulations require and shall submit the records to the Minister at such times and with such information as the regulations prescribe. 1953, c. 12, s. 2, *part*.

Books and
records to
be open to
officers of
Department

26. Such officers of the Department as the Minister may appoint to inspect the books and records kept by owners in respect of the establishment, maintenance and operation of cemeteries, shall for the purpose of inspection have access to all such books and records at all reasonable times. 1953, c. 12, s. 2, *part*.

Perpetual
care funds
to trust
company,
etc.

R.S.O. 1960,
c. 222

27.—(1) Every owner shall pay over all perpetual care funds that have heretofore and that hereafter come into his possession to the Public Trustee or to a trust company registered under *The Loan and Trust Corporations Act* within one month from the day on which the funds come into his possession or within such further period of time as the regulations provide. 1954, c. 6, s. 5, *part*; 1960, c. 7, s. 6.

Investment

(2) The Public Trustee or trust company shall invest the perpetual care funds as prescribed by section 28 and pay the income therefrom to the owner for the purposes of perpetual care.

Further
funds to be
paid over

(3) Where the owner has paid over perpetual care funds under subsection 1, all perpetual care funds thereafter received by the owner shall be paid over to the Public Trustee or to the trust company, as the case may be, to be dealt with in like manner.

Transfer
of funds

(4) Where the owner has paid over the perpetual care funds to a trust company in accordance with subsection 1 or 3, the owner, with the approval of the Minister, may direct the trust company to transfer any such funds to another trust company referred to in subsection 1 or to the Public Trustee. 1954, c. 6, s. 5, *part*.

Idem

(5) Where the owner has paid over the perpetual care funds to the Public Trustee in accordance with subsection 1 or 3, the owner, with the approval of the Minister, may direct the Public Trustee to transfer any such funds to a trust company referred to in subsection 1. 1957, c. 7, s. 7.

Held in trust

(6) Perpetual care funds that have been paid over to the Public Trustee or a trust company under this section shall not be returned to the owner but shall form a trust in the possession of the Public Trustee or the trust company.

(7) This section does not apply to the perpetual care ^{Exemption} funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this section under the regulations. 1954, c. 6, s. 5, *part*.

28.—(1) Every owner entitled to hold perpetual care ^{Investment of funds} funds, the Public Trustee or a trust company shall invest perpetual care funds in the same manner as a trustee is authorized to invest trust funds under *The Trustee Act*. ^{R.S.O. 1960, c. 408} 1954, c. 6, s. 5, *part*; 1960, c. 7, s. 7 (1).

(2) Except as otherwise provided in this Act or the regu- ^{Deposit of funds in bank pending investment} lations, the owner, Public Trustee or a trust company, pending the investment of perpetual care funds or pending the payment over of such funds to the Public Trustee or a trust company in the case of an owner not entitled to hold perpetual care funds, may deposit them during such time as is reasonable in the circumstances in any chartered bank of Canada, or in the Province of Ontario Savings Office, or in any trust company or loan corporation that is registered under *The R.S.O. 1960, Loan and Trust Corporations Act*. 1954, c. 6, s. 5, *part*; 1960, ^{c. 222} c. 7, s. 7 (2).

(3) This section does not apply to the perpetual care funds ^{Exemption} of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this section under the regulations. 1954, c. 6, s. 5, *part*.

29.—(1) For the purposes of sections 30 to 37, “owner” ^{Interpretation,} includes a trust company to which perpetual care funds have ^{ss. 30-37} been paid.

(2) Every owner shall forthwith submit to be passed, ^{Passing of accounts} examined and audited, by the judge of the surrogate court for the county or district in which his cemetery, mausoleum or columbarium is located, accounts of his dealings with perpetual care funds that have come into his hands since the 1st day of January, 1952, but this subsection does not apply to any owner whose accounts with respect to such funds have been so passed since the 1st day of January, 1955.

(3) On a passing of accounts, the judge may require the ^{Idem} owner,

- (a) to submit additional accounts or information with respect to perpetual care funds; and
- (b) to make a full disclosure and accounting of all perpetual care funds that have come into the possession of the owner at any time.

Idem

(4) Where a cemetery, mausoleum or columbarium is hereafter established, the owner shall, within five years after its establishment, submit to be passed, examined and audited by the judge, accounts of his dealings with perpetual care funds.

Exemption

(5) This section does not apply to perpetual care funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this Act under the regulations. 1954, c. 6, s. 5, *part, amended*.

Periodical passing of accounts

30. After the first passing of accounts under section 29 or a predecessor thereof, the owner shall submit his accounts with respect to perpetual care funds to be passed, examined and audited at intervals not exceeding five years from the date of the order made on the last previous passing of accounts.

Passing of accounts

31. The judge of the surrogate court for the county or district in which a cemetery, mausoleum or columbarium is located may direct a passing of accounts of perpetual care funds at any time. 1954, c. 6, s. 5, *part*.

Extension of time for passing accounts

32. Where for any reason the judge deems it expedient, he may from time to time, after notice has been given to the Public Trustee of an application to extend the time for passing accounts, extend the time prescribed by section 29 or 30 for a period not exceeding two years. 1954, c. 6, s. 5, *part*.

Provisions of R.S.O. 1960, cc. 388, 408 to apply

33.—(1) Except as provided in subsection 2, the provisions of *The Surrogate Courts Act* and the rules made thereunder and of *The Trustee Act* with respect to the passing of accounts of an executor, administrator or trustee apply *mutatis mutandis* to the passing of accounts under this Act, but the owner shall not be allowed any compensation for his care, pains and trouble and his time expended in and about the perpetual care funds, and any agreement made by the owner as defined in clause *j* of section 1 with respect to the payment to a trust company or to the Public Trustee for services in connection with funds entrusted to the trust company or to the Public Trustee may be reviewed and passed upon by the judge on a passing of accounts. 1954, c. 6, s. 5, *part*; 1957, c. 7, s. 8.

Notice

(2) Notice of the passing of accounts shall be served only upon the Public Trustee unless the judge otherwise directs. 1954, c. 6, s. 5, *part*.

Breach of trust

34. If, upon the passing of accounts, the judge finds that the owner has been guilty of a breach of trust or has in his

hands perpetual care funds that are not immediately required for perpetual care purposes, or has failed to set aside the proper amount for such purposes, he may direct that the funds or a part thereof be paid to the Public Trustee or to a trust company, or make such order as he deems necessary to compel compliance with this Act or the trust in question. 1954, c. 6, s. 5, *part*; 1960, c. 7, s. 8.

35. An owner shall from time to time furnish the Public Trustee with such information with respect to perpetual care funds as the Public Trustee requires. 1954, c. 6, s. 5, *part*. Information required by Public Trustee

36. The Public Trustee shall be deemed to be a person having an interest in perpetual care funds. 1954, c. 6, s. 5, *part*. Interest of Public Trustee

37. In addition to the powers, rights and obligations created by this Act, the provisions of the general law either statutory or otherwise apply to an owner or trust company with respect to any perpetual care funds in his hands to the same extent as they are applicable to a trustee having funds or property in his hands for charitable purposes. 1954, c. 6, s. 5, *part*. Law applicable to property for charitable purposes

38. Where an action has been commenced by debenture holders whose debentures are charges against the assets of a cemetery and perpetual care funds paid to the owner of the cemetery have not been set aside as required by this Act and the regulations and a receiver has been appointed by order of the court, the Lieutenant Governor in Council may, notwithstanding this Act and the regulations, fix the amount to be set aside for perpetual care. 1957, c. 7, s. 9. Power to adjust amount of perpetual care funds

39. The owner of a cemetery that is not operated for gain or profit may maintain any lot, tomb, monument or enclosure that is not being properly maintained by or on behalf of the owner thereof, and the reasonable charges for so doing are a debt due by the lot owner to the owner of the cemetery. R.S.O. 1950, c. 46, s. 18. Right to charge owner with cost of maintenance

40.—(1) If additional land is required for the enlargement of a cemetery and the council of the municipality in which the land is situate by by-law declares that in the opinion of the council the owner should, for that purpose, have power to expropriate any adjacent land described in the by-law, and if the Department certifies that in its opinion the proposed enlargement is for the public advantage and convenience and ought to be permitted, the owner, upon registering the by-law and certificate in the proper registry or land titles office, in respect of the land described in the by-law, possesses Power to acquire additional lands, etc.

the powers conferred upon the council of a local municipality by *The Municipal Act*.
 R.S.O. 1960,
 c. 249

How pro-
 ceedings
 to be
 instituted

(2) Where the owner, not being a municipal corporation, desires to proceed under this section, proceedings for expropriation may be initiated by notice. R.S.O. 1950, c. 46, s. 19.

Power
 to make
 regulations

41. Subject to this Act and to the regulations, the owner may make regulations for laying out and selling lots and managing the cemetery, for regulating burials therein, the removal of bodies therefrom, the erection or removal of tombs, monuments, gravestones, vaults, copings, fences, hedges or other permanent improvements therein, the planting, placing and removal of trees, shrubs and plants in the grounds, and otherwise generally respecting the use of the grounds, and for the execution of conveyances of lots or plots in the cemetery. R.S.O. 1950, c. 46, s. 20.

Power to
 borrow

42. The owner may borrow money for the purpose of laying out, making and improving roads in the cemetery, and for that purpose may mortgage all his estate, right and interest in the cemetery, but nothing in this section authorizes the mortgagee or any one claiming under him to use or deal with the cemetery in a manner inconsistent with the continued use of it as a cemetery or inconsistent with any provision of this Act for the preservation and protection of it for cemetery purposes. R.S.O. 1950, c. 46, s. 21.

Duties of
 owner

43.—(1) The owner shall,

- (a) keep and maintain fences about the cemetery sufficient to prevent dogs, cattle and other animals from straying therein;
- (b) keep the cemetery and the buildings and fences thereof in good order and repair; and
- (c) see that all burials in the cemetery are conducted in a decent and orderly manner, and that quiet and good order are at all times maintained therein.

Weeds

R.S.O. 1960,
 c. 427

(2) Where there is no person resident in the municipality in which a cemetery is situate in charge of it, the cemetery shall be deemed non-resident land within the meaning of *The Weed Control Act*.

Offence

(3) Every default in complying with subsection 1 constitutes an offence for which the owner on summary conviction is

liable to a fine of not more than \$10 and \$5 for every day during which the default continues. R.S.O. 1950, c. 46, s. 22, *amended*.

44. Every owner shall construct all necessary sewers and drains in and about the cemetery for draining it and keeping it dry, and may whenever necessary connect any such sewer or drain with an existing sewer with the consent in writing of the municipal corporation or other body or the person owning or controlling the highway, lane or other public communication, or the land of which any part is to be opened up for that purpose, doing as little damage as possible and restoring the same to as good condition as before the opening was made. R.S.O. 1950, c. 46, s. 23.

Sewers and drains

45.—(1) The owner shall not cause or suffer any offensive matter from the cemetery to be brought to or flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place.

No offensive matter to be allowed into rivers, etc.

(2) Every contravention of subsection 1 constitutes an offence for which the owner on summary conviction is liable to a fine of not more than \$50, and in addition is liable for any damage caused thereby to any person having a right to use such water. R.S.O. 1950, c. 46, s. 24.

Offence

46.—(1) The owner shall not cause or suffer any dead body to be interred in a vault or otherwise under or within fifteen feet of the outer wall of a church, chapel or other building in the cemetery.

Interments not to be within 15 feet of church walls, etc.

(2) Every contravention of subsection 1 constitutes an offence for which the owner on summary conviction is liable to a fine of not more than \$50. R.S.O. 1950, c. 46, s. 25.

Offence

47.—(1) The owner shall not permit any burial therein until he has been registered as the owner of the cemetery with the Registrar General, through the division registrar of the municipality in which the cemetery is situate.

Owner's name to be recorded

(2) Every contravention of subsection 1 constitutes an offence for which the owner on summary conviction is liable to a fine of not more than \$50. R.S.O. 1950, c. 46, s. 26.

Offence

48. Where the owner neglects to keep a cemetery in good order or to erect or maintain fences as required by this Act, the local board may give notice to him to do so, specifying in the notice what he is required to do, and if he does not within one month after the notice comply with such require-

Default of owner

ments, the local board may cause such requirements to be complied with at his expense, and may levy the cost thereof by distress and sale of the owner's goods and chattels, or may maintain an action for the recovery thereof. R.S.O. 1950, c. 46, s. 27.

Application
of certain
sections to
mausolea

49. Sections 5, 6, 7, 9, 11, 13, 15, 16, 17, 19, 41, 44 and 45 apply *mutatis mutandis* to mausolea in the same manner as they apply to cemeteries. 1957, c. 7, s. 10.

Provision
for sale of
part of lot
where no
interment
made for
20 years

50.—(1) Where no interment has been made in a plot for more than twenty years and the plot owner has not maintained and kept it in a proper state of repair for more than five years or has made default for more than five years in payment of the maintenance charges referred to in section 39, a judge of the county or district court of the county or district, on the application of the owner of the cemetery and after notice has been given as provided by subsection 2 and on being satisfied that the facts are as above set out, may authorize the owner of the cemetery to sell and convey that part of the plot in which no interment has been made, and the proceeds of any such sale, except as otherwise provided in subsection 3, shall be invested and the income derived therefrom shall be applied to the perpetual care and maintenance of that part of the plot in which an interment has been made.

Notice of
application

(2) Where to the knowledge of the owner of the cemetery the plot owner resides in the county or district, notice of the application shall be delivered to him personally or sent to his address by registered mail at least four days before the time fixed for hearing the application, and, where he resides in some other county or district in Ontario and his place of residence is known by the owner of the cemetery, the notice shall be sent to the address of his residence by registered mail at least ten days before the time fixed for the hearing, and, where the place of his residence is not in Ontario or is unknown, the judge may direct what notice, if any, shall be given.

Where fund
for per-
petual care
maintained
and lots sold

(3) Where the owner of a cemetery that is not operated for gain or profit maintains a fund for the perpetual care of the cemetery and plots or parts of plots are sold under this section, the owner shall apply the proceeds received from the sale, or so much as are available, in the following order and priority:

Firstly.—In reduction or satisfaction of all arrears due to the owner for the maintenance charges referred to in subsection 1.

Secondly.—In providing for the perpetual care of that part of the lot in which an interment has been made.

Thirdly.—Any balance remaining to be carried to the credit of the perpetual care fund maintained by the cemetery. R.S.O. 1950, c. 46, s. 28.

51. Where the owner of a cemetery is an incorporated company or a municipal corporation, it shall provide graves for strangers and for the indigent free of charge, but an incorporated company is not bound to do so in the case of an indigent except upon the certificate of a member of the council of the municipality or of a minister or clergyman that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. R.S.O. 1950, c. 46, s. 29.

Graves to be provided for strangers and indigents free of charge

52.—(1) The dead body of a person who has died of small-pox, scarlet fever, measles, diphtheria, croup, bubonic plague, cholera, epidemic cerebro spinal meningitis, or epidemic anterior poliomyelitis shall not be disinterred, except for the purpose of transportation or re-interment and in conformity with the regulations.

Disinterment in cases of contagious diseases

(2) No such dead body shall be transported by railway, steam or other vessel, or other public conveyance unless prepared in the manner provided by the regulations and enclosed in a hermetically sealed coffin that shall not be subsequently opened. R.S.O. 1950, c. 46, s. 30.

Transport of dead body

53.—(1) No dead body shall at any time be disinterred or removed from the grave, place of burial or vault, other than a receiving vault, except under and subject to the regulations and under the supervision and direction of the medical officer of health.

Disinterment of dead body

(2) The certificate of the medical officer of health that this Act and the regulations have been complied with shall be affixed to the coffin or other receptacle containing the dead body before its removal from the cemetery.

Certificate of medical officer of health

(3) Every person who disinters or removes a dead body from a grave, place of burial or vault, except as hereinbefore provided, and every person who conveys or transports any such body in contravention of this Act is guilty of an offence and on summary conviction is liable to a fine of \$100. R.S.O. 1950, c. 46, s. 31.

Offence

54. Every human body interred in a cemetery that is not placed or buried in a private vault so constructed as to

Depth of burials

prevent the escape of noxious or unhealthful gases therefrom shall be buried so that the outside cover or shell of the coffin or other receptacle is at least three feet beneath the natural surface of the ground, and the coffin or other receptacle shall be immediately covered with at least three feet of earth. R.S.O. 1950, c. 46, s. 32.

Disinterment, court order

55.—(1) Notwithstanding anything in this Act, where it is deemed necessary to disinter a dead body for the purpose of a judicial proceeding, the court in which the proceeding is pending may direct its disinterment under and subject to such conditions as to reinterment as are deemed proper. R.S.O. 1950, c. 46, s. 33 (1).

Attorney General's order

(2) Where the Attorney General deems it expedient for the purpose of an inquiry as to the cause of death or for the purpose of a criminal investigation or proceeding that a body should be disinterred, he may exercise the powers mentioned in subsection 1. R.S.O. 1950, c. 46, s. 33 (2); 1958, c. 8, s. 1.

Coroner's order

(3) A coroner who has issued his warrant for the holding of an inquest upon a dead body may direct it to be disinterred. R.S.O. 1950, c. 46, s. 33 (3).

Closing cemeteries

56. Where the Department reports in writing that a cemetery is so situated that, owing to the want of proper facilities for drainage or from any other cause, it has become or is likely to become dangerous to the health of the inhabitants of the locality or that for any other reason it is expedient that it should be closed, the Lieutenant Governor in Council may declare it to be closed and thereupon no further interments shall take place therein. R.S.O. 1950, c. 46, s. 34.

Removal of bodies and re-interment in another cemetery

57.—(1) Where a cemetery has been closed by the Lieutenant Governor in Council and the owner of the cemetery establishes to the satisfaction of the Lieutenant Governor in Council that it is expedient that the bodies therein should be removed therefrom, the Lieutenant Governor in Council may direct such removal in the manner and according to the procedure provided by this section. R.S.O. 1950, c. 46, s. 35 (1).

Notice of application

(2) Before the application for an order under subsection 1 is granted, the owner shall give notice of the application,

(a) once a week for four successive weeks in *The Ontario Gazette*;

- (b) once a week for four successive weeks in a newspaper having general circulation in the locality in which the cemetery is situate; and
- (c) by registered letter addressed to every plot owner in the cemetery whose address is known or can be ascertained by the owner. 1959, c. 10, s. 1.

(3) After the making of the order, the owner shall forthwith give notice thereof by publication once a week for at least two successive weeks in *The Ontario Gazette* and in a newspaper having general circulation in the locality in which the cemetery is situate, or, if there is no such newspaper, then in a newspaper in the county or district town, that he will, at the expiration of thirty days from the publication of the last of such notices, disinter and remove the bodies and reinter them in the place described in the notice, which shall be in some cemetery in the same or in an adjacent municipality.

(4) At the expiration of the time fixed by such notice, any bodies not removed by the relatives or friends of the deceased may be removed by the owner at his own expense, and when removed shall be reinterred by him in the cemetery mentioned in the notice.

(5) Sections 52, 53 and 54 apply to such disinterment, removal and re-interment.

(6) The owner shall remove all monuments or headstones or other stones marking the graves in which bodies so removed are buried, and shall re-erect or replace them in the cemetery to which the bodies are removed.

(7) If the owner satisfies a judge of the county or district court of the county or district that he has removed from the cemetery and reinterred as provided in this Act all the remains which with the exercise of reasonable diligence he has been able to find buried in the cemetery, the judge may certify that this section has been complied with and the certificate may be registered in the proper registry or land titles office.

(8) The certificate when so registered is conclusive evidence that the owner has removed from the land therein described all the remains there buried, and thereafter the land shall be deemed not to be a cemetery within the meaning of this Act, but may be sold, leased or otherwise disposed of and dealt with by the owner as if it had not been a cemetery. R.S.O. 1950, c. 46, s. 35 (3-8).

Removal
by person
other than
owner

58. Where a cemetery has been closed by the Lieutenant Governor in Council and the owner does not proceed as provided by section 57, the Lieutenant Governor in Council may authorize any person to exercise the powers of the owner in respect of a removal directed by the Lieutenant Governor in Council and every expense incurred by such person in so doing is a debt due and owing from the owner to the Crown in right of Ontario. R.S.O. 1950, c. 46, s. 36.

Prohibitions

59.—(1) No person shall,

- (a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in a cemetery, or any fence, railing or other work for the protection or ornament of a cemetery, or of any such tomb, monument, gravestone or other structure or of any lot in a cemetery;
- (b) wilfully destroy, cut, break or injure any tree, shrub or plant in a cemetery, or wilfully injure, destroy or deface any building or structure or any road, walk or other works in a cemetery;
- (c) play at any game or sport in a cemetery;
- (d) discharge firearms in a cemetery, except at a military funeral;
- (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

Offence

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$4 and not more than \$40.

Animals

(3) No person shall bring any dog, goat or cattle within the limits of a cemetery, and every person so doing is guilty of an offence and on summary conviction is liable to a fine of not more than \$20.

Liability
to action

(4) Every person who contravenes subsection 1 or subsection 3 is also liable in an action in the name of the owner of the cemetery or of a burial plot upon which the damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act and, when recovered, the damages shall be applied under the direction of the owner of the cemetery for the reparation and reconstruction of the property destroyed. R.S.O. 1950, c. 46, s. 37.

60. Where the owner of a cemetery cannot be found or is unknown or is unable to maintain it, the council of the local municipality in which the cemetery is situate shall maintain it and the corporation of the local municipality shall for the purposes of this Act be deemed to be the owner of the cemetery. R.S.O. 1950, c. 46, s. 38. Where municipality to maintain cemetery

61. The council of a local municipality may, with the approval of the Lieutenant Governor in Council, pass a by-law, Power of municipality to expropriate cemetery or land to establish cemetery

(a) for expropriating land in the municipality for the establishment of a cemetery; or

(b) for expropriating a cemetery situate in the municipality or in an adjacent township or in unorganized territory,

and Parts XV and XVI of *The Municipal Act* apply *mutatis mutandis* to the exercise of such powers of expropriation. 1953, c. 12, s. 3. R.S.O. 1960, c. 249

62.—(1) Where a local municipality has expropriated a cemetery, the municipality may, with the approval of the Minister, Power of municipality to convey cemetery

(a) convey the cemetery to trustees elected in the manner provided by section 73 or to a company incorporated for the purpose of operating a cemetery upon such trusts as the council of the municipality deems proper; and

(b) assign to such trustees or company any money or securities held by the municipality for the purpose of providing for perpetual care of graves, lots, gravestones or fences in the cemetery.

(2) Where a municipality has conveyed a cemetery to trustees under this section, section 73 applies *mutatis mutandis*. R.S.O. 1950, c. 46, s. 40. Application of s. 73

63.—(1) Subject to sections 5 to 59 and to the regulations, the council of every local municipality and the trustees of every police village may pass by-laws for, By-laws

(a) making an annual or other grant of money to the owner of a cemetery situate in the municipality or the police village, or in any adjacent municipality or police village;

- (b) regulating funerals and the interment of the dead;
- (c) acquiring land in the municipality or in the police village or in an adjacent township or in unorganized territory for a cemetery, or for the enlargement of an existing cemetery of which the municipality or police village is the owner;
- (d) selling or leasing parts of such land for the purpose of interment in family vaults or otherwise, and fixing the terms on which the land shall be conveyed or leased and held;
- (e) the maintenance, management, regulation and control of any cemetery that is owned by the corporation or the trustees whether situate in or outside the municipality or police village. R.S.O. 1950, c. 46, s. 41 (1).

Removal,
etc., of
monuments

(2) The authority given to make by-laws under clause *e* of subsection 1 includes authority to provide for the removal or re-arrangement of any monument or gravestone or other structure in any cemetery that the municipality or the police village, as the case may be, has been charged with maintaining under section 60. 1960, c. 7, s. 9.

By-law
to be
approved by
Department

(3) No such by-law comes into force or takes effect until it has been approved in writing by the Department. R.S.O. 1950, c. 46, s. 41 (2).

By-laws
prohibiting
interment

64. The council of every urban municipality and the trustees of every police village may pass by-laws for prohibiting the interment of the dead in the municipality or police village. R.S.O. 1950, c. 46, s. 42.

Power to
sell to
municipal
corporation

65. The owner of an existing cemetery or of any land held for cemetery purposes may sell or transfer it to any municipal corporation, or the trustees of any police village, and, if it has not been used for burial purposes, the corporation may sell it and acquire other land in lieu of it. R.S.O. 1950, c. 46, s. 43.

Council of
city or town
may trans-
fer cemetery
to board of
park man-
agement
R.S.O. 1960,
c. 329

66. The council of a city or town for which there is a board of park management established under *The Public Parks Act* may by by-law transfer the control and management of a cemetery vested in the corporation of the municipality to such board, and thereafter the cemetery is vested in the board of park management and the board has the control and management of the cemetery and is responsible for its maintenance in the same manner and to the same extent as a municipal

corporation owning and maintaining a cemetery under this Act. R.S.O. 1950, c. 46, s. 44.

67. The council of a city or town owning or controlling a cemetery situated either in or outside the limits of the city or town may by by-law transfer the control and management of the cemetery to a board consisting of not less than three nor more than seven persons who shall hold office during the pleasure of the council and may by the by-law define the duties and powers of such board. R.S.O. 1950, c. 46, s. 45. Cemetery board in city and town

68.—(1) The council of a township may by by-law appoint a board consisting of not less than three nor more than seven persons who shall hold office during the pleasure of the council, and may by by-law provide that the board shall have and may exercise in the municipality all the powers and perform all the duties of a municipal council with respect to cemeteries in the township, including the powers and duties mentioned in section 60. Cemetery board in township

(2) Such a board is a corporation with the name of “The Cemetery Board of the Township of (*insert name of township*)” and the ownership and control of the cemeteries owned or controlled by the corporation of the township are vested in the board. Board to be a corporation

(3) The council of a village has the like powers as are conferred on townships by subsections 1 and 2 not only with respect to cemeteries in the village but also as to cemeteries outside the village owned and controlled by the corporation of the village. R.S.O. 1950, c. 46, s. 46. Cemetery board in village

69.—(1) The council of every county shall appoint a committee to be known as “The (*insert name of county*) War Memorial Committee” to take charge of monuments, tablets and other memorials established or erected in the county in commemoration of the nursing sisters, officers and men of Her Majesty’s forces who served, were wounded, killed or died during any war, except only such monuments, tablets and other memorials as are being cared for by municipalities, churches or other organizations. War memorial committee

(2) The committee shall be composed of five persons of whom two shall be members of the county council and the members of the committee shall serve without remuneration. R.S.O. 1950, c. 46, s. 47. Idem

70.—(1) Where ten or more inhabitants of a township or part of a township desire to take a conveyance of land for a cemetery not for the exclusive use of any particular religious Where lands for cemetery may be vested in trustees

body, they may appoint trustees to whom, and their successors appointed in the manner provided by the conveyance, the land may be conveyed.

Trustees to hold in perpetual succession

(2) Such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land in trust for the uses and purposes mentioned therein and may maintain and defend actions for the protection thereof and of their property therein.

Limitation

(3) Not more than ten acres shall be held in trust under any such conveyance. R.S.O. 1950, c. 46, s. 48.

Cemetery trustees may be empowered to take over other cemeteries

71. Where trustees have been appointed to take a conveyance of land for cemetery purposes in a township or village and have acquired land in the township or village for cemetery purposes and there is in the township or village other land that has been used as a cemetery and no provision has been made for the appointment of trustees for such last-mentioned land and there is no person upon whom the duty of maintaining and caring for the land rests and the owner of such land is absent or unknown, the Ontario Municipal Board, upon the application of the trustees and after the giving of such public notice as the Board deems sufficient, may make an order vesting such last-mentioned land in the trustees and, upon the registration of the order in the proper registry or land titles office, the land vests in the trustees and they have and shall perform the same powers and duties with respect thereto as with respect to other lands conveyed to them for cemetery purposes. R.S.O. 1950, c. 46, s. 49.

Closing road allowance

72. Where a road allowance that has not been opened for travel passes through lands used for cemetery purposes or separates or lies between lands used for cemetery purposes and other lands vested in the trustees under section 71, or conveyed to them, the Ontario Municipal Board, upon the application of the trustees and after notice to the council of the municipality and upon being satisfied that it is in the public interest that the road allowance should be closed and that the part thereof that passes through or is adjacent to the cemetery lands should be vested in the trustees, may make an order closing the road allowance and vesting so much thereof as passes through or adjoins the cemetery lands in the trustees, and, upon the registration of the order in the proper registry or land titles office, the lands described in the order vest in the trustees for cemetery purposes. R.S.O. 1950, c. 46, s. 50.

Election of trustees where no other provision made

73.—(1) Where land has been set apart or sold for cemetery purposes and used as a cemetery and no provision has been made for the appointment of trustees of the cemetery,

or where there is no person upon whom the duty of taking care of and maintaining a cemetery rests, the owners of plots therein may elect trustees in the manner provided in this section.

(2) Three or more of such owners may call a meeting for the purpose of electing trustees by notice (Form 1) to be published once a week for two successive weeks in a newspaper published in the local municipality in which the cemetery is situate, or, if no newspaper is published in the local municipality, then in the newspaper published nearest to the local municipality. Meeting

(3) The date of the meeting shall not be less than two weeks from the date of the last publication of the notice. Date of meeting

(4) At the time and place named in the notice, the plot owners present shall elect from among themselves some person to act as chairman and a person to act as secretary for the meeting. Chairman and secretary

(5) After the election of the chairman and secretary, the plot owners present shall elect from among themselves three persons to be trustees of the cemetery. Three trustees to be elected

(6) After the election of the trustees, the chairman and secretary shall certify as to the election (Form 2). Certificate of election

(7) The certificate shall be made in triplicate and one of them, with an affidavit of execution in the form prescribed by *The Registry Act*, shall be registered in the proper registry or land titles office, and one of them shall be filed with the clerk of the local municipality in which the cemetery is situate, and the other of them shall be delivered to the trustees. Registration and filing certificate R.S.O. 1960, c. 348

(8) Upon the registration of the certificate, the cemetery is vested in the trustees so appointed and their successors, subject to any deed or other instrument setting it apart for cemetery purposes or conveying it or any plot therein for cemetery purposes and subject to the rights of any person who may have theretofore purchased plots in the cemetery and subject to this Act. Effect of registration

(9) The trustees elected and their successors shall be deemed to be the owners of the cemetery. Trustees deemed owners

(10) Where a vacancy occurs in the office of trustee, whether originally elected or elected to fill a vacancy, his successor shall be elected and his election shall be certified and the certificate shall be registered in the manner hereinbefore provided in subsection 7. R.S.O. 1950, c. 46, s. 51. Vacancies among trustees

Adjoining
cemeteries

74.—(1) Where adjoining cemeteries are owned by separate boards of trustees or companies, they may appoint trustees to whom and to their successors, appointed in the manner provided by the conveyance, all or any of the land vested in the appointing bodies may be conveyed, and the same may be conveyed accordingly and the trustees appointed by such conveyance and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land thereby or thereafter conveyed to them as a site for a cemetery and for the enlargement of an existing cemetery, and maintain and defend actions for the protection thereof and of their property therein.

Cemeteries
may be
vested in
company

(2) Instead of appointing trustees as provided by subsection 1, the cemeteries may be conveyed to and vested in the company or in one of the companies upon such trusts, if any, as the appointing bodies deem proper. R.S.O. 1950, c. 46, s. 52.

Establish-
ment of
crematoria

75. The powers of an owner of a cemetery shall be deemed to extend to and include the provision and maintenance of crematoria and columbaria and the disposal of the bodies of deceased persons by cremation, and the provision of such fixtures, appliances and facilities as are deemed necessary in order that the cremation may be carried on in accordance with accepted scientific principles. R.S.O. 1950, c. 46, s. 53.

Regulation
of cremation
and disposal
of ashes

76. The owner may, subject to approval of the Lieutenant Governor in Council, frame by-laws, rules and regulations for the reception and cremation of the bodies of deceased persons, for the deposit of ashes remaining therefrom in a suitable columbarium or for otherwise disposing of them, and for the fees and rates to be charged. R.S.O. 1950, c. 46, s. 54.

Medical
certificate

77. No body shall be cremated unless a certificate and permit similar to that now required for burial have been produced nor within forty-eight hours after death, unless death has been occasioned by a communicable disease subject to quarantine and placard according to *The Public Health Act* and the regulations made thereunder, and so certified by a duly qualified medical practitioner, in which case a duly constituted local board of health may order that the body of the deceased be cremated forthwith. R.S.O. 1950, c. 46, s. 55.

R.S.O., 1960,
c. 321

Coroner's
certificate

78.—(1) No body shall be cremated unless a certificate in the prescribed form, signed by a coroner of the municipality in which the death took place, has been deposited with the

owner, which certificate shall contain the statement that the cause of death has been definitely ascertained and that there exists no reason for further inquiry or examination.

(2) Where the death took place outside Ontario, the certificate required by subsection 1 may be issued by a coroner of the municipality in which the body is to be cremated. ^{Where death outside Ontario}
R.S.O. 1950, c. 46, s. 56.

79. The owner has the right to refuse to cremate in any case without assigning reasons. ^{Right to refuse cremation} R.S.O. 1950, c. 46, s. 57.

80. The Lieutenant Governor in Council may make such regulations as are deemed advisable for the better carrying out of this Act. ^{Regulations} R.S.O. 1950, c. 46, s. 58.

81. Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided shall incur a fine of not less than \$5 and not more than \$100 recoverable under *The Summary Convictions Act*. ^{General penalty} R.S.O. 1960, c. 387, 1950, c. 46, s. 60.

82.—(1) Every fine recovered under this Act, where the prosecution is by or at the instance of the corporation of a municipality, or the local board, or the medical officer of health or other health officer of the municipality, shall be paid to the treasurer of the municipality in which the offence was committed for the use of the local board. ^{Fines to be paid, to municipality}

(2) Where the prosecution is at the instance of the Department or of a provincial officer or where the offence was committed in territory without municipal organization, the fine shall be paid to the Treasurer of Ontario. ^{to Treasurer of Ontario} R.S.O. 1950, c. 46, s. 61.

FORM 1

(Section 73 (2))

Take notice that a meeting will be held at (*naming a place in the local municipality in which the cemetery is situate*) at..... in the..... of..... on the..... day of....., 19...., at the hour of..... o'clock in the..... noon, for the purpose of electing trustees for the cemetery (*here insert description of land sufficient for the purpose of registration and name or designation, if any, of the cemetery*). The owners of plots are requested to attend the meeting.

Dated at..... the..... day of....., 19....
A.B., C.D., E.F.,

Plot Owners.

R.S.O. 1950, c. 46, Form 1.

FORM 2

(Section 73 (6))

We hereby certify that at a meeting of the owners of plots in the cemetery (*here insert description of land sufficient for the purpose of registration and the name or designation, if any, of the cemetery*),..... of....., held pursuant to the provisions of *The Cemeteries Act*, at..... on the..... day of....., 19...., the following persons were elected trustees of the cemetery:

A.B.,..... of.....
C.D.,..... of.....
E.F.,..... of.....

(*insert occupation and place of residence of each trustee*).

Witness:

Chairman
Secretary

R.S.O. 1950, c. 46, Form 2.

CHAPTER 48

The Certification of Titles Act

1.—(1) This Act shall be administered by the director of titles appointed under *The Land Titles Act*. Administration
R.S.O. 1960,
c. 204

(2) In the administration of this Act, the deputy director of titles appointed under *The Land Titles Act* shall act under the supervision of the director of titles. Idem

(3) In the absence of the director of titles or if the office of director of titles is vacant, the deputy director of titles shall act as director of titles for the purposes of this Act and while so acting he shall have and may exercise and perform all or any of the powers and duties of the director of titles under this Act. 1958, c. 9, s. 1. Idem

2. The Lieutenant Governor in Council may appoint one or more assistant deputy directors of titles and one or more title examiners for the purposes of this Act. 1958, c. 9, s. 2. Assistants
and
examiners

3. The director of titles has and may exercise in connection with his functions under this Act all of the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Powers of
director
R.S.O. 1960,
c. 323

4. The director of titles shall have a seal of office in such form as the Lieutenant Governor in Council approves. 1958, c. 9, s. 4. Seal

5. This Act does not apply to land registered under *The Land Titles Act*. 1958, c. 9, s. 5. Where Act
not to apply

6.—(1) An owner of or any person claiming an estate in fee simple in land to which this Act applies, whether or not the land is encumbered, may apply to the director of titles to have the title to the land investigated and certified under this Act. 1958, c. 9, s. 6 (1); 1959, c. 11, s. 1. Application
for certi-
fication

(2) An application under subsection 1 shall be accompanied by the prescribed deposit and shall be supported by, Supporting
material

(a) a statement under oath of the applicant,

(i) that to the best of his knowledge and belief he is the owner of the estate or interest

claimed, subject only to the encumbrances, easements and encroachments set forth in the application, or that there are no encumbrances, easements or encroachments affecting the land, as the case may be, and that he is not aware of the existence of any other claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or that he is aware of such an adverse claim, in which case he shall set forth every such adverse claim and the particulars thereof,

- (ii) where a person other than the applicant is in possession of the land, setting forth under what claim, right or title such person is in possession, and
 - (iii) setting forth such other facts as in his opinion may be of assistance to the director of titles in ascertaining the validity of his title;
- (b) a plan of survey of the land prepared by an Ontario land surveyor;
- (c) a statement under oath by the Ontario land surveyor who prepared the plan of survey, verifying the description of the land, identifying it with the plan of survey, stating the names of the persons in actual occupation of the land or any part thereof, describing the nature of the buildings on the land, and stating the nature and identifying any easements or encroachments apparent on his examination of the surface of the land or of which he has knowledge;
- (d) the title documents, if any, of the land and any other evidences of title available to the applicant;
- (e) an abstract of the title to the land, certified by the registrar of the registry division in which the land is situate, showing a good and sufficient forty-year chain of title immediately preceding the date of the application;
- (f) a typewritten abstract of the title to the land prepared in accordance with good conveyancing practice by a solicitor together with the certificate of such solicitor that he has investigated the title and believes the applicant to be the owner of the estate that he claims in the land subject only to any

encumbrance set forth in the application and that he has conferred with the applicant on the matters set forth in the statement mentioned in clause *a* and that he believes the statement to be true;

- (g) a certificate of the sheriff of the county or district in which the land is situate showing that there are no writs of execution or extent or liens in his hands against any person having an interest in the land as ascertained by the applicant from the registrar's abstract and the investigation of the title and showing that he has not sold any land under any writ against such person within the six months next preceding the date of the certificate;
- (h) a certificate of the treasurer of the municipality in which the land is situate that all municipal taxes for which the land is liable, except those for the then current year, have been paid in full;
- (i) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario that the name of the applicant does not appear in the index book kept pursuant to section 167 of the *Bankruptcy Act* ^{R.S.C. 1952, c. 14} (Canada);
- (j) a statement of the Treasurer of Ontario that he does not claim a lien for taxes payable under *The Corporations Tax Act* or a predecessor thereof by any ^{R.S.O. 1960, c. 73} corporation that appears to have had any interest in the land before the date of the filing of the application;
- (k) evidence of the consent of the Treasurer of Ontario to the transfer of an interest in land consequent upon the death of a person on or after the 1st day of January, 1930, where such person appears from the solicitor's abstract mentioned in clause *f* to have had an interest in the land.

(3) The director of titles may at any time require an applicant to furnish such additional or other information ^{Further material} or material as he specifies. 1958, c. 9, s. 6 (2, 3).

7. Upon the filing of an application, the director of titles ^{Notice of application} shall cause notice thereof,

- (a) to be registered in the registry office of the registry division in which the land is situate; and

- (b) to be published in a newspaper having general circulation in the locality in which the land is situate; or
- (c) to be served on owners and mortgagees of land adjoining the land of the applicant; and
- (d) to be given in such other manner, if any, as he deems proper. 1960, c. 8, s. 1.

Adverse
claim

8.—(1) Any person having an adverse claim or a claim inconsistent with the claim set out in an application may file a statement under oath of his claim with the director of titles at any time before the certificate of title is executed.

Idem

(2) Where a claim adverse to or inconsistent with the claim set out in an application is filed, the director of titles may dispose of the issue or he may refer the matter to a judge of the Supreme Court who shall hear and determine the matter on the evidence before him or may direct the trial of an issue. 1958, c. 9, s. 8.

Findings
to be set
out in
writing

9.—(1) When the director of titles has completed his investigation and any issue referred to a judge is finally disposed of, the director of titles shall set out his findings in writing.

Copies to
be sent to
interested
parties

(2) A copy of the written findings of the director of titles shall be sent by registered mail by the director of titles to the applicant and to every person who has filed a claim adverse to or inconsistent with the claim set out in the application.

Appeal

(3) Any person aggrieved by the written findings of the director of titles may within fifteen days after the date of the mailing of the copies under subsection 2 appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue.

Disposition
of appli-
cation

(4) When the period of fifteen days mentioned in subsection 3 has elapsed and no appeal has been taken or, if taken, has been disposed of, the director of titles may make a certificate of title or dismiss the application, as the case may be.

Signature
and seal

(5) A certificate of title shall bear the signature and seal of the director of titles. 1958, c. 9, s. 9.

Certificate
to part of
land

10. Where the director of titles is able to give a certificate of title to only part of the land mentioned in the application, the application may be amended accordingly. 1958, c. 9, s. 10.

11. The director of titles may order an applicant or any person who has filed a claim adverse to or inconsistent with the claim set out in the application to pay the costs or part of the costs of any proceedings before him or investigations by him and may direct that the same be taxed by the taxing officer of the Supreme Court having jurisdiction where the land is situate. 1958, c. 9, s. 11.

Director
may make
order as to
costs

12. A certificate of title shall be registered by the director of titles in the registry office of the registry division in which the land is situate. 1958, c. 9, s. 12.

Registration
of certi-
ficate

13. Upon registration under section 12, a certificate of title is conclusive as of the day, hour and minute named therein that the person named therein as owner has an absolute and indefeasible title to the land described therein as regards the Crown and all persons whomsoever, subject only to the qualifications mentioned therein, and is conclusive that every application, notice, publication, proceeding and act which ought to have been made, given and done before the making of the certificate has been made, given and done in accordance with this Act. 1958, c. 9, s. 13; 1959, c. 11, s. 2.

Effect of
certificate
of title

14.—(1) No plan of subdivision of land to which this Act applies and which is in a certification area shall be registered unless the title of the owner of the land has been certified under this Act.

Conditions
precedent
to registra-
tion of plan

(2) Subsection 1 does not apply to a plan of subdivision, Where
subs. 1
not to apply

(a) where the land shown thereon is owned by the Crown or by any agency of the Crown;

(b) where the land shown thereon is owned by The Hydro-Electric Power Commission of Ontario;

(c) where the land shown thereon is owned by a municipality or by any local board as defined in *The Department of Municipal Affairs Act*; R.S.O. 1960,
c. 98

(d) where the land shown thereon is owned by a board of harbour commissioners;

(e) prepared under *The Registry Act* and commonly known as a "judge's plan"; or R.S.O. 1960,
c. 348

(f) which is a subdivision of a plan that was registered before the area in which the land is situate was designated as a certification area and in which no

land has been sold, or, whether or not land has been sold, the changes to be effected by the re-subdivision are, in the opinion of the director of titles, of a minor nature. 1958, c. 9, s. 14.

Assurance
fund

15.—(1) An assurance fund shall be formed to compensate persons who may be wrongfully deprived of land or some estate or interest therein by reason of the title to the land being certified under this Act.

Constitution
of fund

(2) In order to constitute such a fund, every applicant shall pay on the making of a certificate of title under this Act, in addition to all other fees, an amount of money equal to one-tenth of 1 per cent of the value of the land described in the certificate.

Buildings

(3) Where there are buildings on the land, the value of the land shall include the value of the buildings.

Maximum
payment

(4) Where the amount calculated under subsection 2 exceeds \$300, the amount payable is \$300. 1958, c. 9, s. 15 (1-4).

Minimum
payment

(5) Where the amount calculated under subsection 2 is less than \$1, the amount payable is \$1. 1960, c. 8, s. 2.

Valuation
of land

(6) The value of the land shall be ascertained as of the date of the application by the oath of the applicant.

Proof of
value

(7) If the director of titles is not satisfied as to the correctness of the value stated by the oath of an applicant, he may require the affidavit in that behalf of a valuator and such affidavit is conclusive.

Applicant
may be
required to
indemnify
fund

(8) The director of titles may require an applicant to indemnify the assurance fund against loss by a bond or covenant to Her Majesty either with or without sureties or by such other security as he considers proper.

Money to
be paid
into court

(9) The moneys payable under this section shall be paid into the Supreme Court with the privity of the accountant of the court and shall be placed to the credit of an account entitled "Assurance Fund under *The Certification of Titles Act*" and, subject to subsection 10, shall be invested from time to time under the direction of the Finance Committee of the Supreme Court and such of the interest and income derived therefrom shall be credited to the same account as the Finance Committee of the Supreme Court from time to time determines.

(10) The moneys in court at the credit of the assurance fund shall on his demand be paid to the Treasurer of Ontario. ^{Payment out of fund}
1958, c. 9, s. 15 (5-9).

16.—(1) If a person is wrongfully deprived of an estate or interest in land by reason of its title having been certified under this Act and he satisfies the Inspector of Legal Offices that he is unable to recover just compensation, he is entitled to have compensation paid out of the assurance fund so far as the assurance fund is sufficient for that purpose having regard to any other charges thereon, if he makes a claim therefor to the Inspector of Legal Offices within six years from the time of his having been so deprived or, in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased. ^{Assurance fund to compensate person wrongfully deprived}

(2) Where a claim is made under subsection 1 in respect of land patented as mining land or in respect of land whose chief value is the ores, mines or minerals therein and it appears that the claimant is entitled to compensation, the value of the land shall not be taken at a greater amount than 800 times the amount paid into the assurance fund in respect of the land under section 15. ^{Mining lands}

(3) The liability of the assurance fund for compensation and the amount of compensation shall, subject to appeal to a judge of the Supreme Court, be determined by the Inspector of Legal Offices. ^{How compensation to be determined}

(4) The Inspector of Legal Offices shall certify to the Treasurer of Ontario any amount found to be payable under this section and, upon receipt of the certificate, the Treasurer shall pay the amount to the person entitled thereto. ^{Payment}

(5) The costs of the proceedings under this section shall be in the discretion of the Inspector of Legal Offices or the court, as the case may be. 1958, c. 9, s. 16. ^{Costs}

17. Proceedings under this Act shall not abate or be suspended by any death or change of interest, but in any such event the director of titles may require notice to be given to persons becoming interested, or may make an order for discontinuing, suspending or carrying on the proceedings or otherwise as he deems proper. 1958, c. 9, s. 17. ^{Where death or change of interest occurs}

Regulations **18.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the deposit to be made on applications;
 - (b) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;
 - (c) prescribing forms and providing for their use;
 - (d) designating certification areas for the purposes of subsection 1 of section 14;
 - (e) prescribing the powers and duties of title examiners under this Act;
 - (f) prescribing a code of standards and procedures for surveys made for the purpose of this Act;
 - (g) prescribing administrative procedures for the purpose of this Act;
 - (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1958, c. 9, s. 18.
-

CHAPTER 49

The Change of Name Act

1. In this Act,

Interpre-
tation

(a) "applicant" means a person applying for a change of name under this Act;

(b) "application" means an application for a change of name under this Act;

(c) "change" means any change by way of alteration, substitution, addition or abandonment;

(d) "child" includes a child adopted under the laws of Ontario;

(e) "given name" includes a Christian name and a baptismal name;

(f) "name" includes a given name and a surname;

(g) "Registrar General" means the Registrar General under *The Vital Statistics Act*;

R.S.O. 1960,
c. 419

(h) "surname" includes a family name and patronymic.
R.S.O. 1950, c. 47, s. 1

2.—(1) Subject to section 13 of *The Vital Statistics Act* and section 70 of *The Child Welfare Act* and except in the case of a change of surname to that of her husband by a woman upon her marriage and except in the case of the adoption of her maiden name by a woman upon the annulment or dissolution of her marriage, a person shall change his name only under this Act. 1957, c. 9, s. 1.

Compliance
with Act
R.S.O. 1960,
cc. 419, 53

(2) Nothing in this Act shall be deemed to affect any change of name effected under any right that existed at law before the 26th day of June, 1939. R.S.O. 1950, c. 47, s. 2 (2).

(3) Any British subject of the full age of twenty-one years who effected a change of name in Ontario under a right that existed at law before the 26th day of June, 1939, may make an application under this Act to change his name from the

Application
where name
changed
before
June 26,
1939

name he bore before the change to the name he bears as a result of the change, as though the change had not been effected. R.S.O. 1950, c. 47, s. 2 (3); 1951, c. 8, s. 1.

Who may
apply

3.—(1) Any person who is a British subject and who is at least eighteen years of age, except a married woman, may make an application.

Infants
deemed
of full age

(2) Where the applicant is an infant, he shall be deemed to be of full age for all purposes of this Act. 1959, c. 12, s. 1.

Application
by married
man

4.—(1) Where a married man applies for a change of his surname, he shall also apply for a change of the surnames of his wife and of all of his or their unmarried infant children.

Idem

(2) A married man may apply for a change of the given names of his wife and any or all of his or their unmarried infant children. R.S.O. 1950, c. 47, s. 4.

Application
by widower
or widow

5.—(1) Where a widower or widow applies for a change of surname, he or she shall also apply for a change of the surname of all of his or her unmarried infant children.

Idem

(2) A widower or widow may apply for a change of the given name or names of any or all of his or her unmarried infant children. R.S.O. 1950, c. 47, s. 5.

Application
by divorced
person on
behalf of
children

6.—(1) A person whose marriage has been dissolved may make an application for a change of the name or names of any or all of his unmarried infant children of whom he has lawful custody.

Proof
required

(2) An application under this section shall be accompanied by such proof that the marriage has been dissolved and that the applicant has lawful custody of the children named in the application as the judge requires.

Consent of
other
parent

(3) No application under this section shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name.

Application
by divorced
woman who
re-marries

(4) Notwithstanding section 3, a woman whose marriage has been dissolved and who re-marries may apply under this section for a change of the surname of her child or children to her surname on re-marriage, but no such application shall be granted unless her husband, if living, consents. R.S.O. 1950, c. 47, s. 6.

7. Notwithstanding section 3, an unmarried mother who marries, or a widowed mother who re-marries, may make an application, with the consent of her husband if living, for a change of the surname of her unmarried infant children, not being her husband's children, so that their surname shall be her surname by marriage. R.S.O. 1950, c. 47, s. 7.

8. Notwithstanding section 3, a married woman who is deserted by her husband may apply for a change of name, and where she applies for a change of surname she may also apply for a change of the name or names of any or all of her unmarried infant children of whom she has custody, but no such application shall be granted unless her husband is served with notice of the application and consents to the change of name. R.S.O. 1950, c. 47, s. 8.

9.—(1) Where an application includes an application for a change of the name of the wife of the applicant or of any unmarried infant children of the age of fourteen years or over, the consent in writing of all such persons shall be obtained, and all such persons shall appear upon the hearing of the application, provided that where a wife has, in the opinion of the judge, been living apart from her husband for a period of five years immediately before the application, the judge may hear the application in her absence and without her consent, in which case no change of her name shall be effected.

(2) Where the consent of any person is required under subsection 3 or 4 of section 6, section 7 or section 8, the consent in writing of all such persons shall be obtained, and all such persons shall appear upon the hearing of the application.

(3) Notwithstanding subsection 2, where the judge is satisfied that the other parent in the case of an application under section 6, or the husband in the case of an application under section 8, does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any other reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his absence and without his consent. R.S.O. 1950, c. 47, s. 9.

10.—(1) Every application shall be made to a judge of the county or district court of the county or district in which the applicant has resided for a period of one year immediately before the making of the application, and shall be heard at such time and place as the judge appoints in writing.

Where judge
unable to
hear
application

(2) Where the judge who has appointed a time and place for the hearing of the application becomes ill or dies or for any other reason is unable to hear the application at the time and place so appointed, the application may be heard by another judge of the same county or district court or by any judge who is for the time being acting as a judge of such court. R.S.O. 1950, c. 47, s. 10.

Application
where
applicant
has not
resided in
county or
district for
one year

11.—(1) Notwithstanding subsection 1 of section 10, the applicant may apply to a judge of the county or district court in the county or district in which he resides for authority to make application without having resided in such county or district for a period of one year immediately before the application.

Idem

(2) The judge shall inquire into the circumstances, and, if he is satisfied that the applicant would otherwise suffer hardship, he may make an order authorizing the applicant to make application forthwith and the order suffices in the stead of the affidavit required by subsection 2 of section 12 in so far as that affidavit refers to residence.

Idem

(3) The judge may in the order require the applicant to publish, in addition to the notice required by subsection 1 of section 13, such additional notice in such counties or districts as he deems necessary, and an affidavit as to publication of such additional notice shall accompany the application for a change of name. R.S.O. 1950, c. 47, s. 11.

Particulars
of
application

12.—(1) Every application shall set forth,

- (a) the address and the date and place of birth of the applicant;
- (b) where the applicant is a married man, the maiden name in full of his wife, and the date and place of marriage;
- (c) the name in full of his father, and, where the applicant is a married man, the name in full of his wife's father;
- (d) the maiden name in full of his mother, and, where the applicant is a married man, the maiden name in full of his wife's mother;
- (e) that he is a British subject by birth or as the case may be;
- (f) his occupation, profession or calling;

- (g) whether he has been convicted of a criminal offence and the particulars of any such offence;
- (h) a statement containing full particulars of any judgment or action pending against him, or any chattel mortgage, lien or other registered encumbrance against his personal property, or, if none, a statement to that effect;
- (i) the name proposed to be adopted;
- (j) a statement containing full particulars of any change of name effected previously, or, if none, a statement to that effect;
- (k) the names, dates and places of birth and other similar particulars with respect to all other persons whose names may be changed as a result of the application;
- (l) a statement of the reasons for desiring the change of name. R.S.O. 1950, c. 47, s. 12 (1); 1951, c. 8, s. 3 (1); 1959, c. 12, s. 2.

(2) Every application shall be accompanied by an affidavit of the applicant deposing, Application to be accompanied by affidavit

- (a) that he has resided in the county or district in which the application is made for a period of not less than one year immediately before the making of the application;
- (b) that the statements contained in the application are true; and
- (c) that the application is made by the applicant in good faith and for no improper purpose. R.S.O. 1950, c. 47, s. 12 (2).

(3) Every application shall be accompanied by, Certificate as to executions and bankruptcy

- (a) a certificate of the sheriff of the county or district in which the application is made and of every other county or district that the judge directs, as to the existence of any unsatisfied executions in his hands against the property of each person of the full age of twenty-one years whose name may be changed as a result of the application; and

- (b) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario as to the appearance in the index book kept pursuant to section 167 of the *Bankruptcy Act* (Canada) of the name of each person of the full age of twenty-one years whose name may be changed as a result of the application. R.S.O. 1950, c. 47, s. 12 (3); 1951, c. 8, s. 3 (2).

R.S.C. 1952,
c. 14

Notice of
application

13.—(1) Every applicant shall publish once in *The Ontario Gazette* and once a week for three consecutive weeks in a newspaper having general circulation in the locality in which he resides, a notice of the application stating the name and address and proposed name of every person whose name may be changed as a result of the application, and the time and place of the hearing of the application.

Time of
application

(2) No application shall be heard until the expiration of fourteen days after the date of the last publication of the notice. R.S.O. 1950, c. 47, s. 13.

Where
notice of
application
may be
dispensed
with

(3) A judge may by order dispense with the necessity of publishing notice of the application as required by subsection 1, if in his opinion,

- (a) the applicant would be unduly prejudiced or embarrassed by such publication;
- (b) the change of name applied for is of a minor character; or
- (c) the applicant has been commonly known under the name applied for. 1959, c. 12, s. 3.

Documents
to be filed

14. Every applicant shall file with the clerk of the court in which the application is made,

- (a) the application with the affidavit referred to in subsection 2 of section 12 in duplicate;
- (b) the certificates required under subsection 3 of section 12;
- (c) an affidavit as to publication of the notice of the application or a notarial copy of the order made under subsection 3 of section 13 dispensing with such publication;
- (d) the appointment for the hearing; and

- (e) if the applicant is not a British subject by birth, a notarial copy of the certificate establishing that he is a British subject. R.S.O. 1950, c. 47, s. 14; 1951, c. 8, s. 4; 1957, c. 9, s. 3.

15.—(1) Upon the hearing, the judge may require the appli- ^{Hearing}
cant, any person whose name may be changed as a result of
the application, or any other person appearing upon the hearing
to give evidence under oath, and may examine or cross-
examine any such person or permit any such person to be
examined or cross-examined.

(2) Any person who objects to a change of name and any ^{Objections}
person who desires to furnish the court with any information
regarding the application or any circumstances connected
therewith may appear upon the hearing of the application and
shall be heard. R.S.O. 1950, c. 47, s. 15.

16.—(1) Where the judge is of opinion that the name that ^{Refusal of}
the applicant seeks to adopt is the same as the name of
another person or resembles the name of another person to
such an extent that the change applied for might reasonably
cause mistake or confusion or be a cause of embarrassment or
inconvenience to such person, or that the change of name is
sought for any improper purpose, or is on any other ground
objectionable, or that the application should be refused for
any other reason, he shall refuse the application.

(2) Where the judge, upon consideration of the application, ^{Granting of}
the material filed and any other evidence adduced, is of
opinion that the application should be granted, he may make
an order effecting the change of name.

(3) An order made under this section may provide for such ^{Scope of}
changes of names as the court deems proper having regard
to the nature of the application, the relationship and status
of other persons mentioned in the application and all other
relevant circumstances, and every such order has effect
according to the tenor thereof. R.S.O. 1950, c. 47, s. 16.

17. The clerk of the court shall enter the order and transmit ^{Certified}
a certified copy of the order, together with a duplicate original ^{copy to}
of the application and of the verifying affidavit, to the ^{Registrar}
Registrar General. R.S.O. 1950, c. 47, s. 17.

18.—(1) The clerk of the court shall send to the appro- ^{Notice of}
priate sheriff or court clerk full particulars of the order made ^{judgement,}
and of any judgment, pending action, chattel mortgage, lien ^{etc., sent}
or other registered encumbrance shown upon the application. ^{to sheriff}
^{or clerk}

Idem

(2) Such sheriff or court clerk shall enter and re-index such judgment, pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. R.S.O. 1950, c. 47, s. 18.

Certificates
issued to
applicants

19. Any person may, upon payment of the prescribed fee, obtain from the clerk of the court in which the order was made a certificate of any order effecting a change of name, and the certificate is for all purposes conclusive evidence of its contents. R.S.O. 1950, c. 47, s. 19.

Substitution
of new
name in
documents
R.S.O. 1960,
c. 419

20. Subject to *The Vital Statistics Act*, without restricting the effect that a change of name may have at law, any person whose name has been changed under this Act, upon production of a certificate obtained under section 19 and upon satisfactory proof of identity, is entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private, upon payment of such fee as is prescribed therefor by or under any statute. R.S.O. 1950, c. 47, s. 20.

Application
for annul-
ment

21.—(1) Any person who has reason to believe that an order effecting a change of name has been obtained by fraud or misrepresentation or for an improper purpose may apply to a judge of the county or district court in which the order was made for an annulment of the order.

Affidavit
giving
reasons

(2) Every application for an annulment shall be accompanied by an affidavit of the person making the application in which his reasons for believing that the order was obtained by fraud or misrepresentation or for any improper purpose shall be set forth.

Hearing of
application

(3) The judge may refuse the application without hearing further representations or evidence or may direct that the person applying for the annulment and any other persons shall be heard at such time and place as he determines and that notice of the hearing shall be given to such persons and in such manner as he directs.

Annulment
of order

(4) If the judge is satisfied that the order was obtained by fraud or misrepresentation or for an improper purpose, he may order the annulment of the order in whole or in part.

Clerk to
note
annulment

(5) The clerk of the court shall endorse a memorandum of the annulling order upon the entry of the order annulled in whole or in part and shall send a certified copy of the annulling order to the Registrar General, and, where appropriate by reason of section 18, to the proper sheriff or court clerk who shall amend his records to accord with the order.

(6) Where a change of name has been annulled, the Registrar General may by order require any person to whom a certificate has been issued under section 19 to forthwith deliver up the certificate, and any person who refuses or neglects to comply with such order is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 47, s. 21.

22.—(1) Any person who by fraud or misrepresentation obtains a change of name under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months. R.S.O. 1950, c. 47, s. 22.

(2) Any person whose application for a change of name is refused under subsection 1 of section 16 and who uses the name he sought to adopt in such application is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months.

(3) Any person who, after having been convicted of an offence against this Act, again offends against this Act is liable to a fine of not more than double the maximum fine provided for the offence. 1952, c. 7, s. 1.

23. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms of applications, affidavits and certificates;
 - (b) prescribing the fees payable upon any application and upon any certificate, search or other matter required or permitted to be given or done under this Act and to whom such fees are payable;
 - (c) providing for the return of any fee upon an application or part of such fee where the application is refused;
 - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 47, s. 23.
-

CHAPTER 50

The Charitable Gifts Act

1. In this Act, "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law. 1959, c. 13, s. 1.

Interpre-
tation

2.—(1) Notwithstanding the provisions of any general or special Act, letters patent, by-law, will, codicil, trust deed, agreement or other instrument, wherever an interest in a business that is carried on for gain or profit is given to or vested in a person in any capacity for any religious, charitable, educational or public purpose, such person has power to dispose of and shall dispose of such portion thereof that represents more than a 10 per cent interest in such business.

Where
interest
to be
disposed of

(2) Subsection 1 does not apply to an interest in a business given to or vested in any organization of any religious denomination.

Exception

(3) Where an interest to which subsection 1 applies is subject to a life interest, life annuity or income for life, so much of the interest as is necessary to provide such life interest, life annuity or income for life shall be deemed to be given or vested when such life interest, life annuity or income for life ceases to exist.

Life
interests,
etc.

(4) For the purposes of this Act, a person shall be deemed to have an interest in a business,

Meaning of
"interest"

- (a) if he is a part owner of the business;
- (b) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more shares in a corporation that owns or controls or partly owns or controls the business; or
- (c) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more bonds, debentures, mortgages or other securities upon any asset of the business.

Idem

(5) For the purposes of this Act but subject to subsection 3, an interest in a business shall be deemed to be given to or vested in a person for a religious, charitable, educational or public purpose so long as the interest or the proceeds thereof or the income therefrom is to be used for any such purpose at any time and notwithstanding that before any such use is made thereof the interest or the proceeds thereof or the income therefrom is to pass into or through the hands of one or more persons or is subject to a life or other intermediary interest. 1959, c. 13, s. 2.

Where interest to be disposed of, wills

3.—(1) Where an interest to which section 2 applies was given or vested pursuant to a will or other testamentary instrument, section 2 shall be complied with within seven years after the death of the testator.

Idem, trust deeds, etc.

(2) Where an interest to which section 2 applies was given or vested pursuant to an instrument other than a will or other testamentary instrument, section 2 shall be complied with within seven years after the date of the instrument.

Extension of time

(3) A judge of the Supreme Court may from time to time extend the period mentioned in subsection 1 or 2 for such further period as he considers proper, if he is satisfied that the extension will benefit the religious, educational, charitable or public purpose concerned. 1959, c. 13, s. 3.

Determination of profits

4.—(1) Where and so long as an interest to which section 2 applies represents more than a 50 per cent interest in the business, the person to whom it is given or in whom it is vested and the person having control of the management of the business or his nominee and the Public Trustee shall on or before the 30th day of June in each year determine jointly the amount of the profits earned by the business in its fiscal year ending in the calendar year next preceding.

Distribution of profits

(2) The business shall pay to the person to whom the interest is given or in whom it is vested his share of the then undistributed profits of the business in the amounts and on the dates determined jointly by the persons mentioned in subsection 1.

Annual return

(3) For the purposes of this section, the person to whom the interest is given or in whom it is vested shall on or before the 31st day of March in each such year deliver to the Public Trustee a return with respect to its fiscal year ending in the calendar year next preceding showing,

(a) the assets and liabilities of the business;

- (b) all accounts of profit and loss of the business;
- (c) the particulars of any fee paid to any director; and
- (d) where the amount of salary and other remuneration paid to any person is \$8,000 or more, the particulars thereof,

and the return shall be verified by the certificate of an officer or the auditor of the business that the statements therein are true.

(4) For the purposes of this section, the Public Trustee may require of any person such further or other information and may make such examination of the accounts and records of the business as he deems necessary. Examination of accounts, etc.

(5) If the persons mentioned in subsection 1 fail to determine jointly any matter mentioned in subsection 1 or 2, the matter shall be determined by a judge of the Supreme Court, and in determining the amount of the profits of the business the judge may disallow in whole or in part any deduction, expenditure, expense, reserve, allowance or other sum that he considers to be unnecessary, excessive or improper having regard to the nature of the business and its financial position. 1959, c. 13, s. 4. Determination by Supreme Court

5. Where an interest in a business is being disposed of pursuant to section 2, any person acquiring any portion of such interest for other than religious, charitable, educational or public purposes may, subject to the approval of a judge of the Supreme Court as to the consideration for and the terms and conditions of the acquisition, so acquire such portion notwithstanding that he is the person disposing of such interest or is an officer, director, agent or employee of such person. 1959, c. 13, s. 5. Rights of acquisition

6. The proceeds of any disposition pursuant to section 2 may be invested only in investments authorized by *The Corporations Act* for the investment of the funds of joint stock insurance companies, but no such investment shall be made that results in the person making the investment holding more than a 10 per cent interest in any one business. 1959, c. 13, s. 6. Investment of proceeds R.S.O. 1960, c. 71

7.—(1) The Treasurer of Ontario may appoint any person to make such investigation as he deems expedient respecting any interest in any business that has been given to or vested in any person for any religious, charitable, educational or Investigation

public purpose or respecting any person to or in whom any such interest has been given or vested.

Powers of
investigator
R.S.O. 1960,
c. 323

(2) Every person so appointed has the same powers as may be given to a commissioner under *The Public Inquiries Act*. 1959, c. 13, s. 7.

Powers of
court

8. Upon the application of the Attorney General or any person interested, a judge of the Supreme Court may make such orders as he considers proper to carry out the intent of this Act or to determine any matter arising under it. 1959, c. 13, s. 8.

Offences

9. Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$5,000 or to imprisonment for a term of not more than one year, or to both. 1959, c. 13, s. 9.

R.S.O. 1960,
c. 52, not
affected

10. Nothing in this Act affects the operation of *The Charities Accounting Act*. 1959, c. 13, s. 10.

CHAPTER 51

The Charitable Institutions Act

1. In this Act,

Interpre-
tation

- (a) "charitable institution" means a building maintained and operated by a charitable organization for persons requiring sheltered care;
- (b) "charitable organization" means a corporation approved as such for the purposes of this Act;
- (c) "hostel" means a charitable institution maintained and operated for the care of transient and homeless persons;
- (d) "Minister" means the Minister of Public Welfare;
- (e) "provincial supervisor" means a welfare institutions supervisor or a welfare institutions inspector and includes any person on the staff of the Department of Public Welfare who is designated as a provincial supervisor by the Minister;
- (f) "regulations" means the regulations made under this Act. 1956, c. 6, s. 1; 1959, c. 14, s. 1.

2. This Act does not apply to a home or joint home under *The Homes for the Aged Act*, a private hospital under *The Private Hospitals Act*, a hospital under *The Public Hospitals Act*, or a sanatorium under *The Sanatoria for Consumptives Act*. 1956, c. 6, s. 2.

Where Act
not appli-
cable
R.S.O. 1960,
cc. 174, 305,
322, 359

3. The Lieutenant Governor in Council may approve any corporation as a charitable organization for the purposes of this Act. 1956, c. 6, s. 3.

Approval of
charitable
organizations

4.—(1) The Lieutenant Governor in Council may approve any building maintained and operated by a charitable organization as a charitable institution for the purposes of this Act.

Approval of
charitable
institutions

(2) No charitable organization shall maintain or operate a building as a charitable institution until the building is approved under subsection 1. 1956, c. 6, s. 4.

Idem

Change of
name

5. No charitable organization shall change its name or the name of any charitable institution maintained and operated by it without the written approval of the Minister. 1956, c. 6, s. 5.

By-laws

6. No by-law of a charitable organization with respect to a charitable institution has force or effect until it is approved by the Lieutenant Governor in Council. 1956, c. 6, s. 6.

Approval
of plans

7.—(1) No charitable organization shall erect a new building to be used as a charitable institution until the site and plans thereof are approved by the Minister and no charitable organization shall erect an addition to an existing building used or to be used as a charitable institution until the plans thereof are approved by the Minister. 1956, c. 6, s. 7 (1).

Provincial
subsidy on
new
buildings
and
additions
other than
hostels

(2) When the site and plans of a new building or the plans of an addition to an existing building to be used as a charitable institution, other than a hostel, have been approved by the Minister under subsection 1, the Lieutenant Governor in Council may direct payment out of the moneys that are appropriated therefor by the Legislature to the charitable organization erecting the new building or the addition of an amount based upon the total bed capacity of the new building or the addition at the rate of \$2,500 per bed or of an amount equal to 50 per cent of the cost thereof to the charitable organization, whichever is the lesser, to be computed in accordance with the regulations. 1959, c. 14, s. 2 (1), *part*.

Idem,
hostels

(3) When the site and plans of a new building or the plans of an addition to an existing building to be used as a hostel have been approved by the Minister under subsection 1, the Lieutenant Governor in Council may direct payment out of the moneys that are appropriated therefor by the Legislature to the charitable organization erecting the new building or the addition of an amount based upon the total bed capacity of the new building or the addition at the rate of \$1,500 per bed or of an amount equal to 30 per cent of the cost thereof to the charitable organization, whichever is the lesser, to be computed in accordance with the regulations, but no payment shall be made under this subsection unless the council of the municipality in which the new building or the addition is situated directs payment to the charitable organization erecting the new building or the addition of an amount equal to at least 20 per cent of the cost thereof to the charitable organization. 1959, c. 14, s. 2 (1), *part, amended*.

When
subsidy
payable

(4) Payments under subsection 2 or 3 may be made when the new building or the addition to an existing building is

completed and ready for occupancy or such payments may be made from time to time during the construction thereof upon such terms and conditions as the Lieutenant Governor in Council prescribe. 1956, c. 6, s. 7 (3); 1959, c. 14, s. 2 (2).

8.—(1) No charitable organization shall purchase or otherwise acquire any building to be used by it as a charitable institution without the written approval of the Minister. ^{Acquisition of existing buildings} 1956, c. 6, s. 8 (1).

(2) When the acquisition of a building to be used as a charitable institution, other than a hostel, has been approved by the Minister under subsection 1, the Lieutenant Governor in Council may direct payment out of the moneys that are appropriated therefor by the Legislature to the charitable organization acquiring the building of an amount based upon the total bed capacity of the building at the rate of \$750 per bed or of an amount equal to 50 per cent of the cost of the building to the charitable organization, whichever is the lesser, to be computed in accordance with the regulations. ^{Provincial subsidy on acquired buildings} 1956, c. 6, s. 8 (2); 1959, c. 14, s. 3 (1).

(3) When the acquisition of a building to be used as a hostel has been approved by the Minister under subsection 1, the Lieutenant Governor in Council may direct payment out of the moneys that are appropriated therefor by the Legislature to the charitable organization acquiring the building of an amount based upon the total bed capacity of the building at the rate of \$450 per bed or of an amount equal to 30 per cent of the cost of the building to the charitable organization, whichever is the lesser, to be computed in accordance with the regulations, but no payment shall be made under this subsection unless the council of the municipality in which the building is situated directs payment to the charitable organization acquiring the building of an amount equal to at least 20 per cent of the cost thereof to the charitable organization. ^{Idem, hostels} 1959, c. 14, s. 3 (2), *amended*.

9. No charitable organization that has received payment of an amount under section 7 or 8 or a predecessor thereof shall change the site, sell or otherwise dispose of any part of, or structurally alter, any charitable institution without the written approval of the Minister. ^{Disposition of charitable institutions that receive subsidy} 1956, c. 6, s. 9, *amended*.

10.—(1) There shall be paid out of the moneys that are appropriated therefor by the Legislature to every charitable organization operating a charitable institution that is specified in the regulations as a children's institution an amount of ^{Provincial subsidy on operating costs}

\$8 per month for each person resident in the institution to be computed in accordance with the regulations. 1956, c. 6, s. 10; 1958, c. 10, s. 1 (1).

Institutions
other than
children's
institutions
and hostels

(2) There shall be paid out of the moneys that are appropriated therefor by the Legislature to every charitable organization operating a charitable institution that is specified in the regulations as an institution, other than a children's institution or a hostel, an amount equal to 75 per cent of the amount paid by the charitable organization for the maintenance of each person resident in the institution to be computed in accordance with the regulations. 1959, c. 14, s. 4.

Inspection

11. A provincial supervisor shall inspect every charitable institution at least once a year, but he may inspect any charitable institution at any time. 1956, c. 6, s. 11.

Suspension
and revoca-
tion of
approvals

12. Any approval given or deemed to have been given under this Act in respect of any charitable organization or charitable institution may be suspended by the Minister or revoked by the Lieutenant Governor in Council at any time. 1956, c. 6, s. 12.

Regulations

13. The Lieutenant Governor in Council may make regulations,

- (a) specifying charitable institutions for the purpose of any regulation;
- (b) prescribing the kinds of persons that may be cared for in specified charitable institutions;
- (c) prescribing the maximum amounts that charitable organizations may charge persons cared for in charitable institutions or specified charitable institutions;
- (d) designating the medical services that shall be provided for persons cared for in charitable institutions;
- (e) governing the qualifications and the powers and duties of the members of staffs of charitable institutions or of specified charitable institutions;
- (f) prescribing rules governing charitable institutions or specified charitable institutions and the conduct and discipline of persons who are cared for therein and the staffs thereof;

- (*g*) prescribing for the purposes of subsections 2 and 3 of section 7 the manner of computing the cost to charitable organizations of erecting new buildings or additions to existing buildings;
 - (*h*) prescribing for the purpose of subsection 4 of section 7 the terms and conditions under which payments may be made from time to time during the construction period;
 - (*i*) prescribing for the purpose of section 8 the manner of computing the cost to charitable organizations of acquiring buildings to be used as charitable institutions;
 - (*j*) prescribing for the purposes of subsections 1 and 2 of section 10 the manner of computing the amount of the grants payable thereunder;
 - (*k*) prescribing the records that shall be kept by charitable organizations and charitable institutions and the returns that shall be made to the Minister by charitable organizations with respect to charitable institutions;
 - (*l*) prescribing the powers and duties of provincial supervisors with respect to charitable organizations and charitable institutions;
 - (*m*) prescribing forms and providing for their use;
 - (*n*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1956, c. 6, s. 13; 1958, c. 10, s. 2; 1959, c. 14, s. 5, *amended*.
-

CHAPTER 52

The Charities Accounting Act

1.—(1) Where under the terms of a will or an instrument in writing real or personal property or any right or interest therein or proceeds therefrom have heretofore been given to or vested in, or are hereafter given to or vested in or to be given to or vested in, a person as executor or trustee for a religious, educational, charitable or public purpose, or are to be applied by him to or for any such purpose, such person shall give written notice thereof, personally or by registered letter, to the Public Trustee and to the person, if any, designated in the will or instrument as the beneficiary under the bequest or gift or as the person to receive the bequest or gift from the executor or trustee. 1957, c. 10, s. 1.

Notice of
bequest or
donation to
be given to
Public
Trustee

(2) Any corporation incorporated for a religious, educational, charitable or public purpose shall be deemed to be a trustee within the meaning of this Act, its instrument of incorporation shall be deemed to be an instrument in writing within the meaning of this Act, and any real or personal property acquired by it shall be deemed to be property within the meaning of this Act. 1951, c. 10, s. 1.

Charitable
corporations,
etc., brought
within Act

(3) The notice shall be given, in the case of an instrument other than a will, within one month after it has been executed, and, in the case of a will, within the same period after the death of the testator.

Time for
giving
notice

(4) No notice under this section is necessary where the trust was completely executed before the 31st day of March, 1914, but the remaining sections of this Act nevertheless apply to every such trust. R.S.O. 1950, c. 50, s. 1 (2, 3).

Where
notice not
necessary

(5) The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee and the notice to the Public Trustee shall be accompanied by an attested or notarial copy of the will or other instrument. R.S.O. 1950, c. 50, s. 2.

Contents of
notice

2.—(1) Every such executor or trustee shall, from time to time upon request, furnish to the Public Trustee particulars in writing of,

Executor or
trustee to
furnish
information
to Public
Trustee

(a) the condition, disposition or such other particulars as are required of the property devised, bequeathed

or given or which has come into the hands of the executor or trustee;

(b) the names and addresses of the executors or trustees; and

(c) the administration or management of the estate or trust.

Corporation
to furnish
information
to Public
Trustee

(2) Where such executor or trustee, either directly or indirectly through any person on his behalf or through any corporation or through a series or combination of such persons, corporations or persons and corporations, controls a corporation or the election of the directors thereof through the holding of a majority of the shares thereof or a sufficient number of shares or any class of shares thereof to enable him to exercise such control in fact, or in any other manner whatsoever, the corporation, the officers and manager of such corporation or any of them shall from time to time furnish to the Public Trustee in writing such information concerning the corporation, its operation, assets, profits or losses, and finances as the Public Trustee requests.

Application
to Supreme
Court where
corporation
involved

(3) A judge of the Supreme Court sitting in chambers, upon the application of the Public Trustee and upon notice to the corporation concerned and to such other person or persons as a judge of the Supreme Court directs, shall inquire into and determine any question relating to the failure to furnish information to the Public Trustee pursuant to subsection 2, and shall inquire into and determine the control of the election of directors or the ownership, control or management of, or any matter affecting, any corporation mentioned in subsection 2, or its operation, assets, profits or losses, and finances and may make such order as is considered necessary or proper to,

(a) compel the giving of information to the Public Trustee;

(b) determine who controls the corporation;

(c) determine who controls the election of the directors of the corporation;

(d) protect or preserve the assets or financial stability of the corporation and the assets held by such executor or trustee relating to the corporation; and

(e) ensure the proper operation and management of the corporation and its assets. 1957, c. 10, s. 2.

3. Whenever required so to do by the Public Trustee, an executor or trustee shall submit the accounts of his dealings with the property coming into his hands or under his control under the terms of the bequest or gift, to be passed and examined and audited by the judge of the surrogate court of the county or district in which he resides or in which probate was granted. R.S.O. 1950, c. 50, s. 4.

Auditing
accounts as
to charitable
legacies or
grants

4. If any such executor or trustee,

Application
to Supreme
Court where
executor
or trustee
in default

- (a) refuses or neglects to comply with any of the provisions of section 1, 2 or 3, or with any of the regulations made under this Act;
- (b) is found to have misapplied or misappropriated any property or fund coming into his hands;
- (c) has made any improper or unauthorized investment of any moneys forming part of the proceeds of any such property or fund; or
- (d) is not applying any property, fund or moneys in the manner directed by the will or instrument,

a judge of the Supreme Court sitting in chambers, upon the application of the Public Trustee made by way of originating notice according to the practice of the court, may make an order,

- (e) directing the executor or trustee to do forthwith or within the time stated in the order anything that he has refused or neglected to do in compliance with section 1, 2 or 3, or with the regulations made under this Act;
- (f) requiring the executor or trustee to pay into court any funds in his hands and to assign and transfer to the Accountant of the Supreme Court, or to a new trustee appointed under clause g, any property or securities in his hands or under his control;
- (g) removing such executor or trustee and appointing some other person to act in his stead;
- (h) directing the issue of an attachment against the executor or trustee to the amount of any property or funds as to which he is in default;
- (i) fixing the costs of the application and directing how and by whom they shall be payable;

- (j) giving such directions as to the future investment, disposition and application of any such property, funds or moneys as he deems just and best calculated to carry out the intentions of the testator or donor;
- (k) imposing a penalty by way of fine or imprisonment not exceeding twelve months upon the executor or trustee for any such default or misconduct or for disobedience to any order made under this section;
- (l) appointing an executor or trustee in place of an executor or trustee who has died, or has ceased to act, or has been removed, or has gone out of Ontario, notwithstanding that the will or other instrument creating the trust confers the power to make such an appointment upon another executor or trustee or upon any other person. R.S.O. 1950, c. 50, s. 5; 1957, c. 10, s. 3.

Regulations **5.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms of notices and returns to be made under this Act;
- (b) respecting the practice and procedure upon passing the accounts of an executor or trustee under this Act and the tariff of fees and costs to be applicable thereto;
- (c) requiring returns to be made by any such executor or trustee to any department of the Government and the form of such returns;
- (d) regulating the practice and procedure upon applications under section 4;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Practice

(2) Except as otherwise provided by the regulations, the practice and procedure of the Supreme Court and of the surrogate courts, respectively, apply to proceedings under this Act.

When
surrogate
registrar
to transmit
copy of
will to
Public
Trustee

(3) Where an application is made for letters probate of a will or other testamentary instrument whereby real or personal property or any right or interest therein or proceeds therefrom are given to or vested in a person as executor or administrator for a religious, educational, charitable or public

purpose or are to be applied by him to or for any such purpose, the surrogate registrar shall transmit a copy of the will or other instrument to the Public Trustee.

(4) Where an action or other proceeding is brought to set aside, vary or construe any such will or other instrument, written notice thereof shall be served upon the Public Trustee, and if no one appears as representing the religious, educational, charitable or public institution, or if there is no named beneficiary, or a discretion is given to the executor or trustee as to a choice of beneficiaries, the Public Trustee may intervene in the action or other proceeding and has the right to object or consent and to be heard upon any argument as a party to the action or other proceeding. R.S.O. 1950, c. 50, s. 6.

6.—(1) Any person may complain as to the manner in which a person or organization has solicited or procured funds by way of contribution or gift from the public for any purpose, or as to the manner in which any such funds have been dealt with or disposed of.

(2) Every such complaint shall be in writing and delivered by the complainant to a judge of any county or district court.

(3) Wherever the judge is of opinion that the public interest can be served by an investigation of the matter complained of, he may make an order directing the Public Trustee to make such investigation as the Public Trustee deems proper in the circumstances.

(4) In making any such investigation, the Public Trustee has and may exercise any of the powers conferred upon him by this Act or that may be conferred upon a commissioner under *The Public Inquiries Act*.

(5) The cost of any such investigation, when approved by the Attorney General, forms part of the expenses of the administration of justice in Ontario.

(6) As soon as the Public Trustee has completed his investigation, he shall report in writing thereon to the Attorney General and to the county court judge who ordered the investigation.

(7) Upon receipt of the report, the county court judge may order a passing of the accounts in question, in which case section 23 of *The Trustee Act* applies, and the judge may make such order as to the costs of the Public Trustee thereon as he deems proper.

Where
section not
to apply

(8) Nothing in this section applies to any religious or fraternal organization or to any person who solicited or procured any funds of any religious or fraternal organization. 1951, c. 10, s. 2.

Application
of Act

7. This Act applies notwithstanding any provision in any will or other instrument excluding its application or giving to an executor or trustee any discretion as to the application of property, funds or the proceeds thereof to religious, educational, charitable or public purposes. R.S.O. 1950, c. 50, s. 7.

Other rights
and remedies
not affected

8. This Act does not apply to or affect or in any way interfere with any right or remedy that any person may have under any other Act or in equity or at common law or otherwise. R.S.O. 1950, c. 50, s. 8.

CHAPTER 53

The Child Welfare Act

1. In this Act,

Interpre-
tation

- (a) “children’s aid society” or “society” means a children’s aid society approved by the Lieutenant Governor in Council under this Act;
- (b) “Director” means the Director of Child Welfare appointed under this Act;
- (c) “local director” means the local director of a children’s aid society appointed under this Act;
- (d) “Minister” means the Minister of Public Welfare;
- (e) “municipality” means a county, city or separated town, but in a territorial district “municipality” means a city, town, village or township;
- (f) “regulations” means the regulations made under this Act. 1954, c. 8, s. 1.

PART I

OFFICERS, SOCIETIES

2.—(1) The Lieutenant Governor in Council may appoint a person as the Director of Child Welfare. 1954, c. 8, s. 2 (1).

Appoint-
ment of
Director

(2) The Director shall,

Duties of
Director

- (a) advise, inspect and supervise children’s aid societies;
- (b) exercise the powers and duties of a children’s aid society in any area in which no society is functioning;
- (c) inspect or direct and supervise the inspection of any place in which a child in the care of a society is placed;
- (d) prepare and submit an annual report to the Minister;

- (e) keep books of account of all moneys received by him, showing the receipts and expenditures;
- (f) perform such other duties as are prescribed by this Act or the regulations or by the Lieutenant Governor in Council. 1954, c. 8, s. 2 (2); 1956, c. 8, s. 1; 1957, c. 12, s. 1.

Acting
Director

(3) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such civil servant as the Minister designates. 1954, c. 8, s. 2 (3).

Appointment
of local
directors

3.—(1) Every children's aid society shall appoint a local director who shall be responsible to the board of directors of the society for the administration and enforcement of this Act and the regulations in the area in which the society has jurisdiction, who shall co-operate with the Director to this end, and who shall carry out such other duties as are required of him by the constitution, by-laws and instructions of the society.

Powers of
local
directors,
etc.

R.S.O. 1960,
c. 318

(2) Every local director and every person designated by the board of directors of a society has for the purposes of this Act the powers of a constable and a school attendance officer, and he shall be deemed to be an officer within the meaning of section 10 of *The Public Authorities Protection Act*, and that section and the other provisions of that Act apply to him in the same manner and to the same extent as they do to the officers mentioned in that section. 1954, c. 8, s. 3.

Police
assistance

4. The Director or a local director or any person acting under the authority of either of them may call to his aid in the performance of his duties a member of the police force responsible for policing the area in which the aid is required. 1954, c. 8, s. 4.

Power to
take
affidavits

5. The Director and every local director and every person authorized by the Director has power to take affidavits and statutory declarations for the purposes of this Act in the same manner and to the same extent as a commissioner for taking affidavits in Ontario. 1954, c. 8, s. 5.

Establish-
ment of
societies

6.—(1) A children's aid society may be established having among its objects the protection of children from neglect, the care and control of neglected children, assistance to unmarried parents, the placement of children in adoption, the supervision of children placed in adoption until an order of adoption is made and generally the discharge of the functions

of a children's aid society under this Act, but no society shall act as such until it has been incorporated under *The R.S.O. 1960, Corporations Act* or a predecessor thereof and until it has^{c. 71} been approved by the Lieutenant Governor in Council. 1954, c. 8, s. 6 (1); 1956, c. 8, s. 2.

(2) The by-laws of every society shall contain such pro- By-laws
visions as the regulations prescribe, and a certified copy of the by-laws and any amendments thereto shall be filed with the Director forthwith after they are made and no such by-law or amendment shall come into operation until it has been approved by the Minister. 1954, c. 8, s. 6 (2).

7.—(1) A children's aid society shall be governed by a Board of
board of directors composed of the president, one or more vice-presidents, the secretary, the treasurer, one or more municipal representatives and such other officers and members as are determined, elected in such manner and for such period as the by-laws of the society provide.

(2) Where the number of directors of a society is more than nine, the directors shall pass a by-law directing them to elect from among their number an executive committee consisting of not less than five and not more than nine members, including the president, the treasurer and one or more municipal representatives, and to delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the board.

(3) A majority of the members of an executive committee Quorum
constitutes a quorum. 1954, c. 8, s. 7.

8. For the purposes of section 7 and subject to the by- Interpretation
laws of the society, "municipal representative" means a member of a municipal council of a municipality in the area in which the society has jurisdiction. 1954, c. 8, s. 8.

9.—(1) There shall be paid to each children's aid society Annual
an annual grant of such amount as the regulations prescribe. grants to societies
1956, c. 8, s. 3, *part*.

(2) Where a society has erected, purchased or otherwise Grants to
acquired a building for use for any purpose under this Act societies
and the Minister has approved in writing the building and in aid of
the purpose of its use, the Lieutenant Governor in Council cost of
may direct payment to such society of an amount up to 25 buildings
per cent of the cost to the society of the building and the land and land
on which it is situated. 1957, c. 12, s. 2.

Idem

(3) There shall be paid to each society having jurisdiction in territory without municipal organization an additional annual grant of such amount as the regulations provide to assist it in the provision of protection services to children living in such territory.

Source

(4) The amounts payable under this section shall be paid out of the moneys that are appropriated therefor by the Legislature. 1954, c. 8, s. 9 (2, 3).

Dissolution
of
societies

10. The Lieutenant Governor may at any time dissolve a children's aid society on such date as the order provides, and upon the dissolution of a society its property vests in the Crown to be held and disposed of in such manner as the Lieutenant Governor in Council determines. 1954, c. 8, s. 10, *amended*.

PART II

PROTECTION AND CARE OF NEGLECTED CHILDREN

Interpre-
tation

11.—(1) In this Part,

- (a) "boarding home" means a home or dwelling in which a child is placed and kept upon payment of compensation, whether the home or dwelling is privately occupied or forms part of, or is connected with, a hospital or a correctional, custodial, charitable or other institution;
- (b) "child" means boy or girl actually or apparently under sixteen years of age;
- (c) "foster home" means a home, other than the home of his parent, in which a child is placed for care and supervision;
- (d) "judge" means the judge or a junior judge or acting judge of a county or district court, the judge or a deputy judge of a juvenile and family court, or a magistrate, where the magistrate has been designated by the Lieutenant Governor in Council a judge for the purposes of this Part;
- (e) "neglected child" means,
 - (i) a child who is an orphan and who is not being properly cared for, or who is brought, with

the consent of the person in whose charge he is, before a judge to be dealt with under this Part,

- (ii) a child who is deserted by the person in whose charge he is or that person has died or is unable to care properly for him,
- (iii) a child where the person in whose charge he is cannot by reason of disease or infirmity or misfortune or incompetence or imprisonment or any combination thereof care properly for him,
- (iv) a child who is living in an unfit or improper place,
- (v) a child found associating with an unfit or improper person,
- (vi) a child found begging or receiving alms in a public place or carrying on a street trade contrary to this Part, or loitering in a public place after 9 o'clock in the evening after being warned as provided in subsection 4 of section 36,
- (vii) a child who, with the consent or connivance of the person in whose charge he is, commits any act that renders him liable to a penalty under any Act of the Parliament of Canada or of the Legislature or under any municipal by-law,
- (viii) a child who is delinquent or incorrigible by reason of the inadequacy of the control exercised by the person in whose charge he is or who is being allowed to grow up under circumstances tending to make him idle or dissolute,
- (ix) a child who, without sufficient cause, habitually absents himself from his home or school,
- (x) a child when the person in whose charge he is neglects or refuses to provide or secure proper medical, surgical or other remedial care or treatment necessary for his health or well-being, or who refuses to permit such

care or treatment to be supplied to the child when it is recommended by a duly qualified medical practitioner,

- (xi) a child who is emotionally rejected or deprived of affection by the person in whose charge he is to a degree that on the evidence of a psychiatrist who is on the register of specialists in psychiatry of the Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario is sufficient to endanger his emotional and mental development, or
- (xii) a child whose life, health or morals may be endangered by the conduct of the person in whose charge he is;
- (f) "parent" means a person who is under a legal duty to provide for a child;
- (g) "place of safety" means a receiving home or an institution for the care and protection of children;
- (h) "public place" means a place, building or conveyance to which the public has, or is permitted to have, access;
- (i) "rate" means the average daily cost to a children's aid society of providing for the welfare of a child or ward who is living in an institution or home other than the home of his parent;
- (j) "receiving home" means an institution or home operated or supervised by a children's aid society for the temporary care of children;
- (k) "ward" means a person committed to the care and custody of a children's aid society.

By whom
cases to
be heard

(2) Where there is a juvenile and family court, cases under this Part shall be heard by the judge or a deputy judge of that court, and, where there is no juvenile and family court, cases under this Part shall be heard by the judge, junior judge or acting judge of the county or district court or by a magistrate designated a judge for the purposes of this Part. 1954, c. 8, s. 11.

12. A constable or other police officer, the Director, a local director or a person authorized by the Director or by a local director may apprehend without warrant and take to a place of safety any apparently neglected child and detain the child there until the child can be brought before a judge, or he may apply to a judge for an order requiring the person in whose charge the child is to produce the child before a judge at the time and place named in the order. 1954, c. 8, s. 12.

How neglected child brought before judge

13.—(1) If it appears to a justice of the peace, on information laid before him on oath,

Warrant to search for neglected child

(a) that there is reasonable cause to suspect that a child is neglected; or

(b) that a ward has been unlawfully removed from the custody of a children's aid society or is being unlawfully concealed or harboured,

the justice may issue a warrant authorizing any person named therein to search for the child or ward and to take him to and detain him in a place of safety.

(2) A person authorized by the warrant may enter, if need be by force, any house, building or other place specified in the warrant and may remove the child or ward therefrom.

Right of entry

(3) It is not necessary in an information or warrant under this section to describe the child or ward by name. 1954, c. 8, s. 13.

Name not necessary

14. An executive officer of an infants' or children's home or other public institution having the care or custody of children may, after notifying a children's aid society in writing, bring before a judge any apparently neglected child. 1954, c. 8, s. 14.

Child in institution

15. A child detained in a place of safety under section 12 or clause a of subsection 1 of section 13 shall be returned to his parent or guardian or brought before a judge within ten days of his detention. 1954, c. 8, s. 15.

Detention limited

16. Section 15 does not apply to a child who is and continues to be in the care of a children's aid society or detained by the society in a place of safety on a voluntary basis with the written consent of the person in whose charge he was immediately before being placed in the care of the society or taken to and detained in a place of safety. 1957, c. 12, s. 3.

Voluntary care or detention

Hearing to
be held

17.—(1) Where a child is brought before a judge as an apparently neglected child, the judge shall hold a hearing and determine whether or not the child is a neglected child, and, if he finds that the child is a neglected child, he shall also determine the child's name, age and religious faith.

Witnesses

(2) The judge has the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as may be requisite and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1954, c. 8, s. 16 (1, 2).

Who may
be heard

(3) The judge may hear any person on behalf of the child, the local director of the children's aid society or any person authorized so to do by the board of directors of the society on behalf of the society, the clerk of a municipality or any person authorized so to do by the council of the municipality on behalf of the municipality, and a regional welfare administrator of the Department of Public Welfare or any person authorized so to do by the Minister on behalf of the Province of Ontario. 1956, c. 8, s. 4 (1); 1958, c. 11, s. 1 (1).

Notice to
municipality
and parent

(4) The judge shall not proceed to hear or dispose of the matter until he is satisfied that any municipality that may be made liable to pay the rate in respect of the child has had reasonable notice of the hearing and that the parent or the person having the actual custody of the child has had reasonable notice of the hearing or that every reasonable effort has been made in the opinion of the judge to cause them to be notified. 1954, c. 8, s. 16 (4).

Notice to
Province

(5) Where it appears to the judge that the Province of Ontario may be made liable to pay the rate in respect of the child, he shall not hear or dispose of the matter until he is satisfied that the regional welfare administrator of the Department of Public Welfare having responsibility in the area in which the proceedings are being taken has had reasonable notice of the hearing or that every reasonable effort has been made in the opinion of the judge to cause such official to be notified. 1956, c. 8, s. 4 (2); 1958, c. 11, s. 12 (2).

Taking and
transcribing
evidence

(6) The evidence of every witness shall be given under oath and shall be taken down,

(a) where the proceedings are in a juvenile and family court that has a stenographer who is a member of the staff of the court, by that stenographer; and

- (b) where the proceedings are not in a juvenile and family court or where the juvenile and family court does not have a stenographer who is a member of the staff of the court, by a stenographer appointed by the judge,

and the court when requested so to do shall provide a transcript of the evidence within twenty days. 1956, c. 8, s. 4 (3); 1957, c. 12, s. 4 (1).

(7) Stenographers appointed under clause *b* of subsection 6, or the employers of such stenographers, shall be allowed the fees for taking down and transcribing evidence prescribed under *The Magistrates Act*, and such fees shall,

Fees for
evidence

R.S.O. 1960,
c. 226

- (a) for taking down evidence, be paid by the municipality to which the child concerned in the proceedings belongs or, where the child belongs to territory without municipal organization, be paid out of moneys appropriated therefor by the Legislature; and

- (b) for transcribing evidence, be paid by the person or authority requesting the transcription. 1956, c. 8, s. 4 (4).

(8) Where a hearing is adjourned, the judge shall make such order for the temporary care and custody of the child as he thinks advisable and he shall name therein the municipality that shall pay *pro tem* the rate in respect of the child. 1954, c. 8, s. 16 (7).

Order on
adjournment

(9) Where the judge finds the child to be a neglected child, he shall make an order,

Order
where child
neglected

- (a) that the case be adjourned *sine die* and that the child be placed with or returned to his parent or guardian or other person subject to supervision by the children's aid society; or
- (b) that the child be committed temporarily to the care and custody of the society for such period, not exceeding twelve months, as in the circumstances of the case he considers advisable; or
- (c) that the child be committed permanently to the care and custody of the society; and

(d) that in cases under clause *b* or *c* the municipality to which the child belongs pay the rate in respect of the child so long as the child remains in the care and custody of the society,

(i) where the child is a child mentioned in section 15, from the day he was detained in a place of safety, or

(ii) where the child is a child mentioned in section 16, from the day he was taken into the care and custody of the society,

but in no case shall that day be more than ten days before the child was brought before the judge as an apparently neglected child. 1954, c. 8, s. 16 (8); 1957, c. 12, s. 4 (2); 1958, c. 11, s. 1 (3).

Order where
child not
neglected

(10) Where the judge finds a child mentioned in section 15 not to be a neglected child, he shall make an order that the municipality to which the child belongs pay the rate in respect of the child for the period of the child's detention in a place of safety, but in no case shall the order be made for a period of more than ten days. 1958, c. 11, s. 1 (4).

Contribution
by parent

(11) Where the judge finds that a parent is able to contribute towards the child's maintenance, he shall in any order made under subsection 8 or clause *b* of subsection 9 or subsection 10, or he may in any order made under clause *c* of subsection 9, order the parent to refund to the municipality the whole or any part of the rate that the municipality has been ordered to pay, but nothing in this subsection relieves the municipality from liability for the rate. 1954, c. 8, s. 16 (10).

Contribu-
tions may
be varied

(12) A judge may, upon application by the municipality paying the rate or by a parent ordered to refund the whole or any part of the rate to the municipality under subsection 11 and upon being satisfied that the circumstances of the parent have changed, vary or rescind any order made under subsection 11 or, where no order has been made under that subsection, make an order under it. 1957, c. 12, s. 4 (3).

Enforcement
of order

(13) An order made against a parent under subsection 11 or 12 may be enforced in the same manner as an order made under *The Deserted Wives' and Children's Maintenance Act*. 1954, c. 8, s. 16 (11); 1957, c. 12, s. 4 (4).

R.S.O. 1960,
c. 105

Re-opening
of case
adjourned
sine die

(14) Where the judge has made an order under clause *a* of subsection 9, the society may at any time bring the case

again before a judge for further consideration and action under this section. 1954, c. 8, s. 16 (12).

(15) Where the child has been committed temporarily to the care and custody of the children's aid society on an adjournment or after the judge has found the child to be a neglected child, the society may at any time during the period of temporary commitment bring the case again before a judge for further consideration and action under this section, and, if the temporary commitment has not been earlier terminated, the case shall, at the expiration of the specified period, again be brought before a judge and the judge shall thereupon further inquire and determine whether the circumstances justify an order returning the child to the parent or guardian or other person in whose charge he is or a further order under subsection 8 or an order or further order under subsection 9, but in no case shall an order be made at any time that results in the temporary commitment of the child for a period of more than twenty-four months from the date of the first order for the temporary commitment of the child. 1958, c. 11, s. 1 (5).

Re-opening
of
temporary
commitment

(16) Where a judge has made an order under clause c of subsection 9, the society may, at any time during the period of permanent commitment and upon at least thirty days notice in writing to the Director, bring the case before a judge to determine if the welfare of the child might best be served by the termination of the permanent commitment, and, if the judge is satisfied that such action is in the interest of the welfare of the child, he shall terminate the commitment.

Re-opening
of permanent
commitment

(17) Where a child has been temporarily committed to the care and custody of a society, the society shall keep such ward in a suitable place and shall exercise during such period all the rights of the legal guardian of such ward, except as to adoption proceedings under Part IV. 1954, c. 8, s. 16 (14, 15).

Custody
during
temporary
commitment

(18) Where a child has been permanently committed to the care and custody of a society under this Part or to a society under any predecessor of this Part, the society is the legal guardian of such ward until he has attained the age of eighteen years, or until he is adopted under Part IV, or until some other legal guardian is appointed, or until the wardship is terminated by a judge under subsection 16, or until an extended guardianship under subsection 19 terminates. 1954, c. 8, s. 16 (16); 1956, c. 8, s. 4 (6).

Custody
during
permanent
commitment

**Extension
of
wardship**

(19) Where it is in the interest of the welfare of a ward, a judge may, upon application of the society, make an order extending the wardship for such period as he considers proper beyond the day on which the ward attains the age of eighteen years, but not beyond the day on which the ward attains the age of twenty-one years and, notwithstanding clause *d* of subsection 9, in any such order the judge shall relieve any municipality paying the rate in respect of the ward from liability for the rate during the extended period of wardship. 1954, c. 8, s. 16 (17); 1956, c. 8, s. 4 (7); 1958, c. 11, s. 1 (6).

**Statement
of facts**

(20) Every order made under this section shall contain a statement of the facts of the case as found by the judge. 1954, c. 8, s. 16 (18).

**Transmis-
sion of
copies of
orders**

(21) The judge shall cause to be transmitted three certified copies of every order made by him under this section to the society, and the society shall transmit one copy to the Director and one copy to the municipality ordered to pay the rate or relieved from liability for the rate. 1956, c. 8, s. 4 (8).

**Access to
child**

18. A judge may, in any case arising under this Part, make such order as he deems proper regarding the right of access to the child by any person or by either parent of the child, having regard to the welfare of the child, the conduct of the person or parent and the wishes of the parents, and may at any time alter, vary or discharge any order so made. 1957, c. 12, s. 5.

**Municipality to
which child
belongs**

19.—(1) For the purposes of this Part, a child,

- (a) who is one year of age or more, shall be deemed to belong to the municipality in which he last resided for a period of twelve months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced; or
- (b) who is less than one year of age or who has resided only in the places mentioned in subsection 4, shall be deemed to belong to the municipality in which his mother last resided for a period of twelve months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced.

(2) Where the municipality to which a child belongs cannot *Idem* be determined under subsection 1, a child,

- (a) who is one year of age or more, shall be deemed to belong to the municipality in which he last resided for the greatest number of months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced; or
- (b) who is less than one year of age or who has resided only in the places mentioned in subsection 4, shall be deemed to belong to the municipality in which his mother last resided for the greatest number of months, consecutive or inconsecutive, in the thirty-six month period preceding the day on which proceedings under this Part commenced.

(3) In all other cases, a child shall be deemed to belong to *Idem* the municipality in which he was residing on the day on which proceedings under this Part commenced. 1954, c. 8, s. 17 (1-3).

(4) For the purposes of this section,

Interpre-
tation

- (a) any period of time during which the child under clause *a* of subsection 1 or clause *a* of subsection 2 or the child's mother under clause *b* of subsection 1 or clause *b* of subsection 2 resided in a children's, infants', maternity or other boarding home, a correctional or charitable institution, a hospital or any home or institution for custodial, medical, educational or other care or supervision, for the purpose of obtaining or receiving custodial, medical, educational, or other care or supervision shall be disregarded;
- (b) any part of a month during which the child or his mother, as the case may be, resides in a municipality shall, if the period is twenty consecutive days or more, be deemed to be one month, and shall, if the period is less than twenty consecutive days, be disregarded;
- (c) any part of a day during which the child or his mother, as the case may be, resides in a municipality shall be deemed to be one day; and

- (d) the expression "day on which proceedings under this Part commenced" means the day on which the child was apprehended or, if he was not apprehended, means the day on which he was brought before a judge as an apparently neglected child. 1954, c. 8 s. 17 (4); 1957, c. 12, s. 6.

Residence
in territory
without
municipal
organization

20. Where it is not possible to determine the municipality to which a child belongs by reason of his residence in territory without municipal organization, he shall be deemed to reside in territory without municipal organization, in which case the Province is responsible for the payment of the rate otherwise payable to the society by municipalities in the area in which the society has jurisdiction, and the other provisions of this Part apply *mutatis mutandis*. 1954, c. 8, s. 18.

Transfer
of wards

21.—(1) Where it is in the interest of the welfare of a ward of a society having jurisdiction in an area other than the area in which the municipality to which the ward belongs is situate, the first-named society may with the written approval of the Director and by written agreement with the society having jurisdiction in the municipality to which the ward belongs apply to a judge for an order transferring the ward to the care and custody of the second-named society and the judge, if he considers it to be in the interests of the welfare of the ward to do so, shall make the order applied for.

Idem

(2) Where a ward is transferred under subsection 1, the society to which he is transferred is vested with the same powers and obligations as the society from which he is transferred. 1954, c. 8, s. 19.

Where more
than one
society
functions

22.—(1) Where another society is established to function in an area in which a society is functioning, the second-named society may, with the written approval of the Director and with the written consent of the first-named society, apply to a judge for an order transferring those of its wards it deems proper to the care and custody of the first-named society, and the judge, if he is satisfied that the first-named society would have been the society named in the orders committing the wards to the care and custody of the second-named society had the first-named society been functioning at the time the orders were made, shall make the order applied for.

Alteration
of juris-
diction

(2) Any society may, with the approval of the Minister, alter the area over which it has jurisdiction, and where the alteration necessitates the transfer of wards to the care and custody of another society, the transfer shall be made in the same manner as provided under subsection 1.

(3) Where a ward is transferred under subsection 1 or 2, the society to which he is transferred is vested with the same powers and obligations with respect to him as the society from which he is transferred. 1956, c. 8, s. 5. Effect of transfer of ward

23. A municipality that has made a payment under an order made under this Part for the maintenance of a child in respect of whom another municipality is subsequently ordered to pay the rate may recover the sum so paid from such other municipality. 1954, c. 8, s. 20. Right of recovery

24. Where a judge orders a municipality to pay the rate under this Part, there shall be paid to the municipality out of the moneys appropriated therefor by the Legislature an amount equal to 40 per cent of the amount of the net expenditures of the municipality under the order, except that where the order is made against a county the amount otherwise payable to the county under this section shall be paid to each municipality forming part of the county in the proportion that the equalized assessment of the municipality bears to the total equalized assessment of the county. 1954, c. 8, s. 21; 1957, c. 12, s. 7. Provincial aid to municipalities

25. The Lieutenant Governor in Council may make special grants out of the moneys appropriated therefor by the Legislature to any municipality in a territorial district, except a city, or to a provisional county, to relieve, in whole or in part, any such municipality that is unduly burdened in any year by reason of its liabilities under this Part. 1954, c. 8, s. 22. Additional provincial aid to certain municipalities

26. The council of any municipality may pass by-laws for the levying of such amounts as are necessary for the purpose of meeting any liability imposed on the municipality under this Part, or for the purpose of affording to a children's aid society such other assistance as the council considers advisable. 1954, c. 8, s. 23. Power to make levies

27.—(1) The council of a municipality may by by-law designate one or more members of the council or any employee of the municipality to authorize a children's aid society to furnish temporary care and shelter to a child where the person in charge of the child consents thereto, and where the society furnishes temporary care and shelter to the child it may charge the municipality the rate in respect of the child. 1956, c. 8, s. 6; 1957, c. 12, s. 8 (1). Temporary care on municipal authorization

(2) Where a municipality pays the rate under subsection 1, there shall be paid to the municipality out of the moneys appropriated therefor by the Legislature an amount equal to Provincial aid

40 per cent of the amount of the net expenditures of the municipality under that subsection. 1954, c. 8, s. 24 (2); 1957, c. 12, s. 8 (2).

Establish-
ment of rates

28.—(1) Each children's aid society shall apply annually to a judge before the 25th day of February for an order establishing its rate and shall give reasonable notice to the municipalities within its area of jurisdiction and to such other municipalities as are at that time paying the rate for children in the care of that society of the intention to apply and of the rate to be applied for. 1954, c. 8, s. 25 (1); 1957, c. 12, s. 9.

Idem

(2) The judge shall hear the representations of the society and of such municipalities as desire to be heard and he shall make an order establishing the rate in accordance with the regulations, and such order shall not have retroactive effect before the first day of the calendar year in which it is made. 1954, c. 8, s. 25 (2).

Appeal

29.—(1) Within thirty days of the making of an order under this Part, any person, including a society or municipality, may appeal from the order to the Court of Appeal with leave of a judge of the Supreme Court.

Idem

(2) On any such appeal, the Court of Appeal may make such order as the court considers proper. 1954, c. 8, s. 26.

Application
to Supreme
Court for
production
of child

30.—(1) Where a parent applies to a judge of the Supreme Court for an order for the production of a child committed under this Part and the judge is of the opinion that the parent has neglected or deserted the child or that he has otherwise so conducted himself that the judge should refuse to enforce his right to the custody of the child, the judge may in his discretion decline to make the order.

Court may
order com-
pensation

(2) If at the time of the application the child is being brought up by another person or has been placed by a children's aid society, the judge, if he directs the child to be given up to the parent, may order the parent to pay to such person or society the whole of the expense properly incurred in bringing up the child, or such part thereof as seems just.

No order
unless
parent fit
person

(3) Where a parent,

(a) has abandoned or deserted his child; or

(b) has allowed his child to be brought up by another person at that person's expense, or by a children's

aid society, for such time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties,

the judge shall not make an order for the delivery of the child to the parent unless the parent satisfies the judge that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

(4) If the judge is of the opinion that the parent ought not to have the custody of the child and that the child is being brought up in a different religious faith from that in which the parent has a legal right to require the child to be brought up, the judge may make such order as he considers proper to ensure that the child be brought up in that religious faith.

(5) Nothing in this section affects the power of the judge to consult the wishes of the child in determining what order ought to be made or any right that the child possesses to exercise his own free choice. 1954, c. 8, s. 27.

31.—(1) A child shall be deemed to have the same religious faith as his father unless it is shown that an agreement has been entered into in writing, signed by his parents, that he be brought up in the same religious faith as his mother.

(2) An illegitimate child shall be deemed to have the religious faith of his mother.

(3) A Protestant child shall not be committed under this Part to the care of a Roman Catholic children's aid society or institution and a Roman Catholic child shall not be committed under this Part to a Protestant children's aid society or institution, and a Protestant child shall not be placed in the foster care of a Roman Catholic family and a Roman Catholic child shall not be placed in the foster care of a Protestant family, and, where a child committed under this Part is other than Protestant or Roman Catholic, he shall be placed where practicable with a family of his own religious faith.

(4) Subsection 3 does not apply to a child detained in a place of safety in a municipality in which there is only one children's aid society.

(5) Notwithstanding anything in this section, the judge may have regard to the wishes of the child in determining what order ought to be made as to his religious faith. 1954, c. 8, s. 28.

Society
may place
ward

32.—(1) A ward of a children's aid society may be placed by the society for any period of time in a foster home or other suitable place according to the needs of the child, and every ward so placed shall receive an education in accordance with the laws of Ontario and in keeping with his intellectual capacity, and provision for his occupational training and for his physical, mental and spiritual development shall be such as a good parent would make for his own child.

Removal
of ward

(2) A ward who has been so placed may at any time be removed by the society when, in the opinion of the Director, or the local director, the welfare of the ward so requires. 1954, c. 8, s. 29.

Adoption
of ward

(3) Where a ward of a society is placed in a foster home and in the opinion of the local director it is in the best interest of the ward to place him in adoption, the foster-parents shall not be denied the opportunity of making application to adopt the ward if they so desire. 1956, c. 8, s. 7.

Interference
with wards,
etc.

33.—(1) No person shall,

- (a) induce or attempt to induce a ward or a person under the age of eighteen years who is lawfully in the care and custody of an organization that provides care for children to leave the premises in which he has been lawfully placed; or
- (b) detain or harbour a ward or a person under the age of eighteen years who is lawfully in the care and custody of an organization that provides care for children after demand made by a person authorized to require the delivery up of such ward or person; or
- (c) visit, write to, telephone to or otherwise interfere with a ward who is placed in a foster home or other place, or his foster parents, without the consent in writing of the children's aid society.

Offence

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500 or to imprisonment for a period of not more than one year or both. 1954, c. 8, s. 30.

Desertion,
neglect,
etc., of
child

34.—(1) Any person having the care, custody, control or charge of a child who neglects, abandons, deserts or fails to support the child or inflicts unreasonable cruelty or ill-treatment upon the child not constituting an assault is

guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500 or to imprisonment for a term of not more than one year or both.

(2) Any person having the care, custody, control or charge of a boy or girl under the age of ten years who leaves the boy or girl unattended for an unreasonable length of time without making reasonable provision for his or her supervision and safety is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$100 and, for any subsequent offence, to a fine of not more than \$200 or imprisonment for a term of not more than one year.

(3) The judge may in connection with any case arising under subsection 1 or 2 hold a hearing in respect of any child concerned and may proceed as though the child was brought before him as an apparently neglected child. 1954, c. 8, s. 31.

35.—(1) Every person who,

Causing
child to beg,
perform, etc.

- (a) causes or procures a child to be in any public place for the purpose of begging or receiving alms or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or
- (b) causes or procures a child to be in any public place for the purpose of singing, playing, or performing for profit or offering anything for sale between 9 o'clock in the afternoon of any day and 6 o'clock in the morning of the following day; or
- (c) subject to subsection 2, causes or procures a child to be at any time for the purpose of singing, playing, or performing for profit or offering anything for sale in any circus, theatre or other place of public amusement to which the public are admitted by payment,

is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$100 or to imprisonment for a term of not more than six months or both.

(2) In the case of an entertainment or series of entertainments to take place in premises used for public entertainment or in a circus, theatre or other place of public amusement, where it is shown that provision has been made to ensure the health and proper treatment of a child proposed to be employed thereat, the head of the council of the municipality may, with the approval of the children's aid

Licence for
child to
perform
in public

society, grant a licence for such time and during such hours of the day and subject to such restrictions and conditions as he thinks fit for any child who in his opinion is a fit and proper person to take part in such entertainment or series of entertainments, and the licence may at any time be varied, added to or revoked by him with the approval of the children's aid society.

Officer to
supervise
licensed
child

(3) The municipal council shall assign to a person the duty of seeing that the restrictions and conditions of any licence granted under subsection 2 are duly complied with, and such person may enter, inspect and examine any place at which the employment of a child is for the time being licensed, and that duty shall be discharged by the chief constable of the municipality until some other person is appointed. 1954, c. 8, s. 32.

Street
trades,
girls under
16 and boys
under 12;

36.—(1) No girl under sixteen years of age and no boy under twelve years of age shall engage in or be licensed or permitted to engage in any street trade or occupation.

boys 12
to 16

(2) No boy twelve or more years of age and under sixteen years of age shall engage in any street trade or occupation between the hours of 9 o'clock in the afternoon and 6 o'clock in the morning of the following day.

Boy or girl
under 16
loitering
in public
place at
night

(3) No boy or girl under sixteen years of age shall loiter in any public place between the hours of 9 o'clock in the afternoon and 6 o'clock in the morning of the following day or be in any place of public resort or entertainment during such hours unless accompanied by his or her parent or guardian or an adult appointed by the parent or guardian to accompany the boy or girl.

Warning

(4) A boy or girl found contravening any provision of this section may be warned by a constable or an officer of a children's aid society and, if the warning is not regarded or after the warning the boy or girl is again found contravening any provision of this section, the boy or girl may be taken by the constable or officer to his or her home or to a place of safety and dealt with as an apparently neglected child.

Offence

(5) A parent who permits his boy or girl to contravene any provision of this section is guilty of an offence and on summary conviction before a judge is liable to a fine of \$5 and, for any subsequent offence, to a fine of \$10. 1954, c. 8, s. 33.

37. Where a person is charged with an offence under this Part in respect of a child who is alleged to be under a specified age and the child appears to the judge to be under that age, the child shall for the purposes of this Part be deemed to be under that age unless the contrary is proved. 1954, c. 8, s. 34. Presumption as to age of child

38.—(1) A child charged with an offence or who is brought before a judge under this Part shall not, before his trial or hearing, be confined in a lock-up or a police cell used for persons charged with crime. Separate place of detention

(2) The council of every city, town, village and township shall make provision for the separate detention of every such child prior to his trial or hearing by arrangement with a person or society willing to undertake the responsibility of such detention on such terms as are agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-ups and police cells. Idem

(3) A child remanded in custody for sentence or under sentence in jail or other place of confinement shall not be placed or allowed to remain in the same cell or room with or be in the company of adult prisoners. Idem

(4) Where an information is laid against a child, the person issuing the process shall at once notify the local director who shall have opportunity allowed him to investigate the charge and the circumstances pertaining thereto. Notice of charge to be given to local director

(5) Upon receiving such notice, the local director may make such inquiry as he considers appropriate and report his findings to the judge in court. Local director may inquire

(6) Where it appears to the judge that the interest of a child charged with an offence under section 36 will be best served thereby, the child may be dealt with by the judge in the same manner as though the child had been brought before him as an apparently neglected child or the child may be dealt with under *The Training Schools Act*. 1954, c. 8, s. 35. Alternative proceedings

39.—(1) Where a child is brought before a judge under this Part, the hearing shall be held in premises maintained specifically for the purpose or in the private office of the judge or in other suitable premises, but the hearing shall not be held in premises ordinarily used for magistrates' courts. Place of hearing

(2) Where a child or parent is brought before a judge for trial or hearing under this Part, the judge shall exclude Exclusion of public, etc.

from the room all persons, other than the counsel and witnesses in the case, officers of the law or of a children's aid society and friends and relatives of the child or parent, and he may exclude any or all of the friends and relatives as he thinks proper. 1954, c. 8, s. 36.

Authority
to bring
children
into
Ontario

40.—(1) The Lieutenant Governor in Council may authorize any organization to carry on the work of bringing into Ontario and providing foster homes for neglected or dependent children who are not feeble-minded and who before arrival in Ontario are certified by a duly qualified medical practitioner to be free from disease of any kind.

Records
to be
kept

(2) Every such organization shall keep a record in a register prescribed by the Director for that purpose of the names of all children brought into Ontario by it under this section, their ages and such particulars as he requires, and a copy of such record shall be filed with the Director by every such organization on the first days of January and July of each year.

Penalty
for false
record

(3) Any person who knowingly makes or is a party to the making of or procuring to be made, directly or indirectly, any false record under subsection 2 is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500.

Supervision

(4) Every such organization shall maintain careful supervision of every child brought or caused or procured to be brought into Ontario by it until the child attains the age of eighteen years, and it shall cause a personal visit by an agent appointed for that purpose to be made to each such child at least once in every year until the child has attained such age, and, for the protection of the person and earnings of the child, the organization, until the child attains the age of eighteen years, has all the powers and shall perform all the duties by law provided in the case of the guardian of an infant. 1954, c. 8, s. 37.

PART III

PROTECTION OF CHILDREN BORN OUT OF WEDLOCK

Interpre-
tation

41.—(1) In this Part, "judge" means the judge or a junior judge or acting judge of a county or district court, the judge or a deputy judge of a juvenile and family court, or a magistrate where the magistrate is designated by the Lieutenant Governor in Council a judge for the purposes of this Part. 1957, c. 12, s. 10.

(2) Where there is a juvenile and family court, proceedings under this Part shall be heard by the judge or a deputy judge of that court, and, where there is no juvenile and family court, proceedings under this Part shall be heard by the judge or a junior or acting judge of a county or district court or a magistrate designated a judge for the purposes of this Part. 1956, c. 8, s. 8, *part*.

42. Nothing in this Part requires a children's aid society to interfere with the care and maintenance of a child born out of wedlock where the child has been adopted in accordance with the laws of Ontario or where the child is being cared for voluntarily by a person whom the society considers suitable to have charge of the child. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 12.

43.—(1) Where a child is born out of wedlock and no agreement between the mother and the putative father with respect to the care and maintenance of the child is in force, a society and the mother of the child may enter into an agreement with the putative father of the child for the payment of money by the putative father in respect of the expenses and maintenance mentioned in subsection 1 of section 52, and, if the financial circumstances of the putative father change at any time, the terms of the agreement may be varied by the parties accordingly. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (1).

(2) Where a putative father enters into an agreement under subsection 1 in which he agrees to pay a fixed amount in respect of the maintenance mentioned in subsection 1 of section 52, the agreement shall provide for the fixed amount to be paid within twelve months from the date on which the agreement is made. 1956, c. 8, s. 8, *part*.

(3) The money payable under an agreement made under subsection 1 shall be paid in the first instance to the society that is a party to the agreement. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (2).

(4) The money so paid to a society,

Idem

(a) if it is paid in respect of the expenses mentioned in subsection 1 of section 52, shall be apportioned, if necessary, and paid over by the society in accordance with the circumstances of the case to the person or persons who incurred the expenses;

- (b) if it is paid in periodic payments in respect of the maintenance mentioned in subsection 1 of section 52, shall be paid over by the society to the person having the care and custody of the child; or
- (c) if it is a fixed amount paid in respect of the maintenance mentioned in subsection 1 of section 52, shall be dealt with by the society as provided in section 59. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (3).

Default
under
agreement

(5) Where the putative father is in default in payment of money under an agreement made under subsection 1, the mother or the society, or the mother and the society together, may make an application to a judge for an affiliation order, and, where the putative father continues in default for a period of sixty days and an application for an affiliation order has not been made, the society shall within the next following period of thirty days make an application to a judge for an affiliation order. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 13 (4).

Proof of
paternity

(6) Where an application for an affiliation order is made under subsection 5, the agreement is admissible in evidence as *prima facie* proof that the putative father is in fact the father of the child. 1956, c. 8, s. 8, *part*.

Application
for affilia-
tion order

44. In addition to an application under subsection 5 of section 43, an application may be made to a judge for an affiliation order,

- (a) by the mother of a child born out of wedlock;
- (b) by the next friend or guardian of a child born out of wedlock;
- (c) by a society; or
- (d) with the approval of a society, by any person or municipality having an apparently legitimate claim for reimbursement of moneys expended or payments of moneys charged in consequence of the mother's pregnancy, the birth of the child, the death of the child, the maintenance of the child or the maintenance of the mother. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 14.

Death of
mother

45. A society may institute or continue proceedings under this Part even though the mother has died. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 15.

46. No affiliation order shall be made under section 52 ^{When application to be made} unless the application therefor is made in the lifetime of the putative father, and

- (a) within two years from the birth of the child;
- (b) within one year after the doing of any act on the part of the putative father that affords evidence of acknowledgment of paternity;
- (c) within one year after the return to Ontario of the putative father where he was absent from Ontario at the expiration of the period of two years from the birth of the child; or
- (d) the putative father has failed in whole or in part to carry out the terms of an agreement entered into under this Part. 1956, c. 8, s. 8, *part.*

47. In proceedings under this Part, the judge has the power ^{Powers of judge} of summoning any person and requiring him to give evidence on oath and to produce all documents and things as may be relevant and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1956, c. 8, s. 8, *part.*

48. All proceedings under this Part shall be heard by the judge in private. 1956, c. 8, s. 8, *part.* ^{Proceedings to be private}

49. No affiliation order shall be made under section 52 ^{Corroborative evidence required} upon the evidence of the mother of the child unless her evidence is corroborated by some other material evidence. 1956, c. 8, s. 8, *part.*

50.—(1) Where an application for an affiliation order is made to a judge, the judge shall appoint in writing a time and place at which the application will be heard and notice in writing thereof shall be served personally or in such other manner as the judge directs upon the putative father at least seven days before the day so appointed. 1956, c. 8, s. 8, *part.* ^{Appointment for hearing; notice}

(2) Where the judge is satisfied that there is good and probable cause for believing that the putative father of the child is in fact the father of the child and that the putative father is about to quit the territorial jurisdiction of his court with the intention of avoiding service of the notice in writing referred to in subsection 1 or of evading his obligations in respect of the child and the child's mother, whether before ^{Arrest of putative father}

or after an affiliation order has been made, the judge may issue a warrant for the arrest of the putative father and upon his arrest may require him to give security for such sum and in such manner and upon such condition as the judge directs, and, if the security is not given, the judge may order the putative father to be imprisoned for a period of not more than three months unless the security is sooner given or the putative father has sooner complied with the condition so imposed. 1956, c. 8, s. 8, *part, amended*.

Affiliation
order, where
putative
father fails
to appear

51. Where the putative father who has been served with notice of the application under section 50 fails to appear at the hearing or to show sufficient reason for not appearing, the judge in the absence of the putative father and upon sufficient evidence being adduced before him may make an affiliation order against the putative father under section 52 or he may make such other order as he considers just. 1956, c. 8, s. 8, *part*.

Affiliation
order, where
putative
father
appears

52.—(1) Where the putative father appears in pursuance of the notice of the application served upon him under section 50, the judge upon sufficient evidence being adduced before him may make an order declaring the putative father to be in fact the father of the child and requiring him, in accordance with the circumstances of the case,

- (a) to pay the reasonable expenses for the maintenance and care, medical and otherwise, of the mother of the child during her pregnancy and at the birth of the child, her burial expenses if she dies as a consequence of her pregnancy or of the birth of the child, and the burial expenses of the child if the child has died; and
- (b) to make periodic payments or to pay a fixed amount for the maintenance of the child until the child attains the age of sixteen years or until the child is adopted under Part IV or until the child dies.

Contribu-
tion by
mother

(2) A judge may in an affiliation order made under this section order the mother of the child to make periodic payments or to pay a fixed amount to assist in the maintenance of the child until the child attains the age of sixteen years or until the child is adopted under Part IV or until the child dies.

Considera-
tions in
fixing sums

(3) In estimating the amount of the periodic payments or the fixed amount for maintenance to be paid by the father under subsection 1, the judge shall fix such payments or amount as will enable the child to maintain a reasonable standard of life having regard to what the child would have

enjoyed had the child been born in lawful wedlock, but the judge shall take into consideration the ability of the father to provide such payments or amount and the ability of the mother to assist in the maintenance of the child.

(4) Any fixed amount ordered to be paid under this section shall be paid within twelve months from the date of the affiliation order. ^{When fixed sum to be paid}

(5) Any balance of a fixed amount paid under this section shall, if the child dies before attaining the age of sixteen years, revert to the father or mother, as the case may be, unless otherwise ordered by a judge. ^{Death of child} 1956, c. 8, s. 8, *part*.

53.—(1) Any money payable under an affiliation order made under section 52 shall be paid in the first instance to the judge making the order or to an official of the court designated by the judge. ^{Payment of money under affiliation order} 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 16 (1).

(2) Any money so paid for expenses under subsection 1 of section 52 shall be apportioned, if necessary, and paid over in accordance with the circumstances of the case to the person or persons who incurred the expenses. ^{Idem}

(3) Any money so paid as periodic payments for maintenance under subsection 1 or 2 of section 52 shall be paid over to the person having the care and custody of the child on whose behalf the payments were made. ^{Idem} 1956, c. 8, s. 8, *part*.

(4) Any money so paid as a fixed amount for maintenance under subsection 1 or 2 of section 52 shall be dealt with as provided in section 59 by the judge or the official of the court designated by the judge. ^{Idem} 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 16 (2).

54.—(1) Where an order for the payment of money is made in an affiliation order under this Part and the child for whose benefit the order is made is a public charge or the judge is of the opinion that if there is default in the order the child is likely to be a public charge, the judge may, in the order, order any person required to make payments thereunder to report to a probation officer at such times and places as the judge deems necessary for the purpose of ensuring that such person is complying with the order. ^{Order to report to officer}

(2) Where a judge orders a person to report to a probation officer under this section, he shall designate the officer and may by further order change the designation. ^{Officer to be designated}

Failure to
report

(3) Every person who without reasonable excuse fails to report to a probation officer when ordered so to do under this section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months.

Proof of
order

(4) An order made under this section certified by the judge or a certificate of a judge as to the making of an order by him is receivable in evidence as proof of the making of such order in any prosecution under this section without proof of the office or signature of the person certifying. 1956, c. 8, s. 8, *part*.

Re-opening
of applica-
tion

55. Where an application for an affiliation order has been dismissed, a judge may, on the discovery of new evidence or of fraud, grant leave to re-open and may re-open and reconsider the application. 1956, c. 8, s. 8, *part*.

Variation
of orders

56. Where an order for the payment of money has been made in an affiliation order under this Part, a judge may at any time vary or rescind the order for the payment of money as he sees fit and any order so varied may be enforced in the same manner as the original order. 1956, c. 8, s. 8, *part*.

Appeal

57.—(1) Within thirty days of the making of an order under this Part, any person may appeal from the order to the Court of Appeal with leave of a judge of the Supreme Court.

Idem

(2) On any such appeal, the Court of Appeal may make such order as the court considers proper. 1956, c. 8, s. 8, *part*.

Enforcement
of orders

58. Any order made under this Part may be enforced in the same manner and by the like proceedings as,

R.S.O. 1960,
c. 105.

(a) an order made under *The Deserted Wives' and Children's Maintenance Act*;

R.S.O. 1960,
c. 387

(b) an order made or fine imposed under *The Summary Convictions Act*; or

(c) a judgment of the division court, where the order has been filed with the clerk of a division court, whereupon proceedings by way of execution, garnishment proceedings or judgment summons, *inter alia*, may be used to enforce the order. 1956, c. 8, s. 8, *part*; 1958, c. 4, s. 2.

59.—(1) The portion of a fixed amount paid under an agreement made under section 43 or under an affiliation order made under section 52 that is not required immediately by the society that is a party to the agreement or by the judge who made the order, as the case may be, to pay the expenses or the maintenance mentioned in subsection 1 of section 52 shall be paid over to the Public Trustee by the judge or the society. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 17 (1). Money not immediately required

(2) Money so paid over shall be invested by the Public Trustee but is subject to withdrawal of any amounts from time to time upon the written requisition of a judge or of a society. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 17 (2). to be invested

60.—(1) An agreement made under section 43 or an order for payment of money in an affiliation order made under subsection 1 of section 52 binds the estate of the putative father or father after his death and any moneys payable thereunder are a debt due from and chargeable upon his estate and are recoverable at the suit of the society in the case of an agreement or the person having the care and custody of the child in the case of an order, but every such agreement or order is, as to any payment falling due before or after his death, subject to review under section 56. 1956, c. 8, s. 8, *part*; 1957, c. 12, s. 18. Deceased father's estate bound

(2) No action or other proceeding shall be taken on any such agreement or order after the death of the putative father or father without the leave of a judge of the court in which the action or other proceeding is to be brought, and the judge before granting leave shall direct notice to be given to the widow and legitimate children of the putative father or father and to all other persons interested in his estate. Proceedings after death of father

(3) Where in any such action or other proceeding it appears to the judge that the terms of the agreement or order cannot be carried out without depriving the widow or legitimate children of the putative father or father of necessary maintenance, the judge may, having regard to all the circumstances, vary the agreement or order to such an extent and in such manner as to make equitable provision for the widow, the legitimate child or children and the child or children born out of wedlock. 1956, c. 8, s. 8, *part*. Widow, etc., not to be prejudiced

61. A judge has power to direct payment of the costs of any proceeding taken before him under this Part. 1957, c. 12, s. 19. Payment of costs

PART IV

ADOPTION

Interpre-
tation

62. In this Part, "child" means a person under or over twenty-one years of age. 1958, c. 11, s. 3, *part.*

Jurisdiction
of courts

63.—(1) The Supreme Court or the county or district court of the county or district in which either the applicant or the child sought to be adopted resides at the time of the application for an adoption order has jurisdiction to make the order.

Application
to be heard
in chambers

(2) An application for an adoption order shall be heard and determined in chambers.

Stale
applications

(3) Where an application for an adoption order is not heard by the court within the twelve months next following the signing of the application by the applicant, it shall not be proceeded with, but another application may be made in its stead.

Guardian
ad litem

(4) For the purpose of an application for an order for the adoption of a child under twenty-one years of age, the court may appoint a person to act as guardian *ad litem* of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the court, and the court may direct the applicant to pay the costs of the person so appointed. 1958, c. 11, s. 3, *part.*

Where order
may be
made

64. The court may make an order for the adoption of any child resident in Ontario upon application therefor being made in the prescribed manner by a person domiciled in Canada and resident in Ontario. 1958, c. 11, s. 3, *part.*

Where order
not to be
made

65.—(1) The court shall not make an adoption order,

- (a) where the applicant, or either of joint applicants, is under twenty-five years of age or is less than twenty-one years older than the child sought to be adopted;
- (b) where the applicant is a male and the child sought to be adopted is a female under twenty-one years of age; or
- (c) where the applicant is unmarried, a widow, a widower or a divorced person,

unless the court is satisfied that there are special circumstances that justify, as an exceptional measure, the making of the order.

(2) Except in the case of a joint application by a husband and wife, an order shall not be made for the adoption of a child by more than one person.

(3) An adoption order shall not be made upon the application of a husband or wife without the written consent of the spouse.

(4) An order for the adoption of a child who is over twenty-one years of age or who is under twenty-one years of age and has been married shall not be made unless the court is satisfied that the child has in fact been in the custody of, brought up, maintained and educated by the applicant as his own child during infancy or until marriage, as the case may be, under a *de facto* adoption. 1958, c. 11, s. 3, *part*.

66.—(1) An order for the adoption of a child under twenty-one years of age who was born in wedlock and who has not been married shall be made only with the written consent of every person who is a parent or guardian or who has lawful custody or control or who is liable to contribute to the support of the child.

(2) An order for the adoption of a child under twenty-one years of age who was born out of wedlock and who has not been married shall be made only with the written consent of the mother given after the child was seven days old, and, where the child resides with and is maintained by the father, with the written consent of the father, but the mother or father may cancel such consent within twenty-one days after it was given by a document in writing to that effect.

(3) An order for the adoption of a child who is committed permanently to the care and custody of a children's aid society shall be made only with the written consent of the society, in which case no other consent is required.

(4) An order for the adoption of a child who is over twenty-one years of age or who is under twenty-one years of age and has been married shall be made only with the written consent of the child, and, where the child is married, with the written consent of the spouse.

(5) Where a consent required by this section has not been given, the court may dispense with the requirement if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the requirement be dispensed with.

Where
consent
given

(6) Where a consent required by this section has been given, it may be withdrawn by the person giving it only if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the consent be withdrawn. 1958, c. 11, s. 3, *part*.

Affidavit
of execution

67. An affidavit of execution in the prescribed form shall be attached to every consent required under this Part and to every cancellation under subsection 2 of section 66. 1958, c. 11, s. 3, *part*.

Director's
certificate

68.—(1) Subject to subsection 2, an adoption order in respect of a child who is under twenty-one years of age and who has not been married shall not be made unless the Director certifies in writing,

- (a) that the child has resided for six months or more with the applicant and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as in his opinion justify the making of the order; or
- (b) that the applicant is to the knowledge of the Director a proper person to have the care and custody of the child and that for the reasons set out in the certificate it is in the best interests of the child that the period of residence be dispensed with.

Local
director's
certificate

(2) In the case of a child referred to in subsection 1 who has been placed for adoption by a children's aid society, the certificate referred to in clause *a* of that subsection is sufficient if it is signed by the local director. 1958, c. 11, s. 3, *part*.

Duty of
court

69. The court before making an adoption order shall be satisfied,

- (a) that every person who has given a consent under this Part understands the nature and effect of the adoption order; and
- (b) that the order will be in the best interests of the child. 1958, c. 11, s. 3, *part*.

Surname

70.—(1) Upon an adoption order being made and unless the adoption order provides for the adopted child to retain his surname, the adopted child shall assume the surname of the adopting parent.

(2) In an adoption order, the court may in its discretion ^{Given name} change the Christian or given name or names as the adopting parent desires, and thereafter the adopted child is entitled to and is to be known by the name or names so given. 1958, c. 11, s. 3, *part.*

71. If the adopted child was born out of wedlock, that fact ^{Born out of wedlock} shall not appear upon the adoption order. 1958, c. 11, s. 3, ^{not to appear} *part.*

72. The papers used upon an application for an adoption ^{Papers to be sealed up} order shall be sealed up and filed in the office of the court by the proper officer of the court and shall not be open for inspection, except upon an order of the court or the written direction of the Director. 1958, c. 11, s. 3, *part.*

73. Within ten days after the making of an adoption order, ^{Trans-} the proper officer of the court shall cause to be made a sufficient ^{mission of order} number of certified copies thereof under the seal of the proper certifying authority and shall transmit,

- (a) the original order to the adopting parent;
- (b) one certified copy to the Director; and
- (c) one certified copy to the Registrar General, or, where the adopted child was born outside Ontario, two certified copies to the Registrar General. 1958, c. 11, s. 3, *part.*

74.—(1) Upon an application for an adoption order, the ^{Interim order} court, with the written approval of the Director, may postpone the determination of the application and make an interim order giving the custody of the child sought to be adopted to the applicant for a period not exceeding one year by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the child and otherwise as the court thinks fit.

(2) An interim custody order is not an adoption order. ^{Idem}

(3) All consents required for an adoption order are necessary ^{Consents} for an interim custody order, subject to a like power in the court to dispense with any such consent requirement.

(4) Where an applicant has obtained an interim custody ^{Residence outside Ontario} order and subsequently takes up residence outside Ontario, the court may nevertheless make the adoption order applied for if the Director makes the certificate mentioned in section 68. 1958, c. 11, s. 3, *part.*

Effect of
order on
previous
adoption

75. An adoption order or an interim custody order may be made in respect of a child who has previously been the subject of an adoption order and the adopting parent under the adoption order last previously made shall, if living, be deemed to be the parent of the child for the purposes of this Part. 1958, c. 11, s. 3, *part.*

Status of
adopted
child

76.—(1) For all purposes the adopted child, upon the adoption order being made, becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child as if the adopted child had been born in lawful wedlock to the adopting parent.

Idem

(2) For all purposes the adopted child, upon the adoption order being made, ceases to be the child of the person who was his parent before the adoption order was made and that person ceases to be the parent of the adopted child.

Idem

(3) The relationship to one another of all persons, whether the adopted child, the adopting parent, the kindred of the adopting parent, the parent before the making of the adoption order and the kindred of that parent or any other person, shall be determined in accordance with subsections 1 and 2.

Exception

(4) Subsections 2 and 3 do not apply for the purposes of the laws relating to incest and the prohibited degrees of marriage to remove any person from a relationship in consanguinity which, but for this section, would have existed. 1958, c. 11, s. 3, *part.*

Status of
persons
heretofore
adopted

77. Every person heretofore adopted under the laws of Ontario and every person adopted under the laws of any other province or territory of Canada or under the laws of any other country shall for all purposes in Ontario be governed by this Part. 1958, c. 11, s. 3, *part.*

Succession
duty
R.S.O. 1960,
c. 386

78.—(1) Where duty is levied under *The Succession Duty Act* on the death of an adopted child,

(a) on property passing on his death to or for the benefit of the adopting parent or the kindred of the adopting parent; or

(b) on the adopting parent or the kindred of the adopting parent,

the duty is payable at the same rate and to the same extent as if the adopted child had been born in lawful wedlock to the adopting parent.

(2) Where duty is levied under *The Succession Duty Act* on ^{Idem} the death of an adopting parent or the kindred of an adopting ^{R.S.O. 1960, c. 386} parent,

(a) on property passing on the death of the parent to or for the benefit of the adopted child or any issue of the adopted child; or

(b) on the adopted child or issue,

the duty is payable at the same rate and to the same extent as if the adopted child had been born in lawful wedlock to the adopting parent. 1958, c. 11, s. 3, *part*.

79.—(1) Every person, other than a children's aid society, ^{Registration of placement} who places a child with another person on the understanding that the other person will adopt the child shall, within thirty days after the day on which the child is so placed, register the placement with the Director in the prescribed form.

(2) At the request of the Director, a children's aid society ^{Information} shall, within fifteen days after the receipt of the request, obtain such information respecting a placement as he requires and shall forthwith transmit the information to the Director together with its opinion as to the suitability of the placement.

(3) Every person who fails to comply with subsection 1 is ^{Offence} guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1958, c. 11, s. 3, *part*.

80. Every person who gives or receives or agrees to give or ^{Penalty for payments in connection with adoptions} to receive any payment or reward, either directly or indirectly, in consideration of the adoption of a child under this Part, or who gives or receives or agrees to give or to receive any payment or reward, either directly or indirectly, to procure a child for the purpose of adoption is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than three years, or to both. 1958, c. 11, s. 3, *part*.

PART V

REGULATIONS

81. The Lieutenant Governor in Council may make ^{Regulations} regulations,

(a) prescribing additional duties of the Director;

- (b) prescribing the records that shall be kept by children's aid societies and the returns that shall be made to the Minister under this Act;
 - (c) prescribing provisions to be included in the by-laws of children's aid societies;
 - (d) prescribing the amounts of annual grants to children's aid societies, the manner of computing and paying the grants, and the conditions upon which the grants may be paid;
 - (e) prescribing the formula to be used in establishing the rate;
 - (f) governing the construction, alteration, remodelling, extension and equipment of receiving homes;
 - (g) prescribing rules under which applications under this Act or any Part thereof are to be made, and dealing generally with all matters of procedure under this Act or any Part thereof;
 - (h) for fixing fees, costs, charges and expenses payable on proceedings under this Act or any Part thereof and for dispensing with the payment of such fees, costs, charges and expenses where owing to lack of means or any other reason the judge considers such action advisable;
 - (i) prescribing forms and providing for their use;
 - (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act or any Part thereof. 1954, c. 8, s. 85; 1956, c. 8, s. 13.
-

CHAPTER 54

The Children's Boarding Homes Act

1. In this Act,

Interpre-
tation

- (a) "child" means a boy or girl actually or apparently under sixteen years of age;
- (b) "children's boarding home" means a premises in which five or more children who are not related to one another through a parent, step-parent or grand-parent are lodged, boarded or cared for, but does not include,
 - (i) a foster home or institution supervised or operated by a children's aid society under *The Child Welfare Act*, R.S.O. 1960,
c. 53
 - (ii) a private home in which there are foster children who are beneficiaries under *The Mothers' and Dependent Children's Allowances Act*, R.S.O. 1960,
c. 247
 - (iii) a house that is registered under *The Maternity Boarding Houses Act*, R.S.O. 1960,
c. 231
 - (iv) a hospital or institution that is in receipt of any provincial aid,
 - (v) a house that is licensed under *The Private Hospitals Act*, R.S.O. 1960,
c. 305
 - (vi) a day nursery established and operated under *The Day Nurseries Act*, R.S.O. 1960,
c. 87
 - (vii) a charitable institution within the meaning of *The Charitable Institutions Act*; R.S.O. 1960,
c. 51
- (c) "Department" means the Department of Public Welfare;
- (d) "Minister" means the Minister of Public Welfare;

(e) "provincial inspector" means a member of the staff of the Department who is designated as a provincial inspector by the Minister;

(f) "Registrar" means the member of the staff of the Department who is designated as the Registrar of Children's Boarding Homes by the Minister;

(g) "regulations" means the regulations made under this Act. 1957, c. 11, s. 1.

Administra-
tion

2. The Minister shall administer and enforce this Act and the regulations. 1957, c. 11, s. 2.

Registrar

3. The Minister shall designate an officer of the Department as Registrar for the purposes of this Act and the regulations. 1957, c. 11, s. 3.

Inspectors

4. The Minister may designate one or more officers of the Department as provincial inspectors for the purposes of this Act and the regulations. 1957, c. 11, s. 4.

Children's
boarding
homes to be
registered

5.—(1) No premises shall be used by any person as a children's boarding home unless the home is registered under this Act.

Offence

(2) Where premises are used as a children's boarding home in contravention of subsection 1, the occupier and all persons concerned in the management of the home are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use is continued. 1957, c. 11, s. 5.

Registration

6.—(1) Upon application in the prescribed form and upon payment of the prescribed fee by the applicant, the Registrar shall record in a register kept by him for the purpose the name and address of the applicant, the name, if any, and address of the children's boarding home, the date of registration and such other particulars as the regulations prescribe.

Idem

(2) Subject to section 8, every registration remains in force for twelve months and, upon application therefor in the prescribed form and upon payment of the prescribed fee by the applicant, is renewable for a period of twelve months.

Offence

(3) Every person who knowingly makes any false statement in an application for registration or for renewal of registration is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1957, c. 11, s. 6.

7.—(1) Before making a registration, the Registrar shall determine the maximum number of children that may be lodged, boarded or cared for at any one time in the premises to which the registration is to apply. ^{Maximum number of children}

(2) Where a children's boarding home is used at any time, except in the case of emergency, to lodge, board or care for a greater number of children than the maximum determined by the Registrar under subsection 1, the occupier of the premises and all persons concerned in the management of the home are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use is continued. 1957, c. 11, s. 7. ^{Offence}

8.—(1) The registration of a children's boarding home may at any time be cancelled by the Registrar, ^{Cancellation of registration}

- (a) if the occupier of the premises or any person concerned in the management of the home has been convicted of an offence against this Act or of any offence punishable by imprisonment; or
- (b) if, in the opinion of the Registrar, the premises are unsanitary or without proper fire protection or the home is operated in a manner contrary to the regulations or in such a manner that the cancellation of the registration is required in the public interest.

(2) Before a registration is cancelled, the Registrar shall give notice to the occupier of the premises of the ground or grounds on which it is proposed to cancel the registration and shall afford him an opportunity of showing cause why the registration should not be cancelled. 1957, c. 11, s. 8. ^{Notice}

9.—(1) Every occupier of premises registered under this Act shall keep or cause to be kept a register of children in the home containing, ^{Register of children}

- (a) the name, age, sex and former place of abode of each child in the home;
- (b) the name and address of the parents or other persons having charge of each child before he entered the home;
- (c) the date upon which each child entered the home;
- (d) the date upon which each child left the home and the name and address of the person in whose charge he was when he left the home; and

(e) such other particulars as the regulations prescribe.

Idem

(2) The particulars required by subsection 1 shall be entered in the register as soon as practicable after the entry or the leaving, as the case may be, of the child to which the entry relates.

Offence

(3) Every person who fails to comply with this section or who knowingly makes an untrue entry in such a register is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1957, c. 11, s. 9.

Placing
child in
unregistered
home,
offence

10. Every person who causes a child to be lodged, boarded or cared for in a children's boarding home that is not registered under this Act and every parent, guardian or other person who is under a legal duty to provide for a child and who permits the child to be lodged, boarded or cared for in such a home is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1959, c. 15, s. 1, *part.*

Child in
unregistered
home
deemed
apparently
neglected
child
R.S.O. 1960,
c. 53

11. A child who is lodged, boarded or cared for in a children's boarding home that is not registered under this Act shall be deemed to be an apparently neglected child within the meaning of and for the purposes of Part II of *The Child Welfare Act*. 1959, c. 15, s. 1, *part.*

Inspection

12.—(1) Every children's boarding home and its registers and records shall at all times be open to inspection by a provincial inspector.

Provincial
inspector
may enter
premises

(2) Where a provincial inspector believes or suspects that any premises is being used as a children's boarding home without being registered under this Act, he may at any time and from time to time enter and inspect the premises and every part thereof, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1957, c. 11, s. 10, *amended.*

Expenses of
administra-
tion

13. The expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1957, c. 11, s. 11; 1959, c. 15, s. 2.

14. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing additional powers and duties of the Registrar;
 - (b) prescribing additional powers and duties of provincial inspectors;
 - (c) prescribing additional particulars to be recorded in the register mentioned in section 6;
 - (d) prescribing additional particulars to be recorded in the register mentioned in section 9;
 - (e) prescribing the returns that shall be made to the Minister by the occupiers of premises registered under this Act;
 - (f) prescribing rules governing and regulating the operation of homes under this Act;
 - (g) prescribing the fee payable by applicants for registration or renewal of registration under this Act;
 - (h) prescribing forms and providing for their use;
 - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1957, c. 11, s. 12, *amended*.
-

CHAPTER 55

The Children's Maintenance Act

1. Every parent shall maintain and educate his child or ^{Liability of parent} children under the age of sixteen years, regard being had to his station in life and means and to the ability of the child or children to maintain himself or themselves. R.S.O. 1950, c. 52, s. 1.

2. Every parent who fails without lawful excuse to comply ^{Offence} with section 1 is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months. R.S.O. 1950, c. 52, s. 2.

3. Nothing in this Act shall be construed as compelling ^{Remedial treatment} any special remedial treatment for a child contrary to the objection of the parent, guardian or person acting *in loco parentis*. R.S.O. 1950, c. 52, s. 3.

CHAPTER 56

The Children's Mental Hospitals Act**1.** In this Act,Interpre-
tation

- (a) "board" means a board of governors appointed under this Act;
- (b) "children" means persons sixteen years of age or under;
- (c) "hospital under this Act" means a hospital for the care and treatment of children suffering from emotional or psychiatric disorders that has been established or designated as a hospital under this Act;
- (d) "Minister" means the Minister of Health;
- (e) "patient" means a person received and lodged in a hospital under this Act for the purpose of treatment;
- (f) "regulations" means the regulations made under this Act; and
- (g) "treatment" means the maintenance, observation, nursing, medical and other care of a patient. 1960, c. 9, s. 1.

2.—(1) The Lieutenant Governor in Council may establish ^{New} hospitals one or more hospitals under this Act.

(2) The Lieutenant Governor in Council may designate any ^{Existing} hospital in operation on the 30th day of April, 1960, as a ^{hospitals} hospital under this Act.

(3) The Lieutenant Governor in Council may designate ^{Name} the name by which any hospital under this Act is to be known. 1960, c. 9, s. 2.

3. The Minister shall administer this Act and, except ^{Adminis-} where a board has been appointed under section 4, he shall, ^{tration} through the Deputy Minister of Health and the superintendent of the hospital, administer every hospital under this Act. 1960, c. 9, s. 3.

Board of
governors

4.—(1) The Lieutenant Governor in Council may appoint a board of governors composed of not fewer than eight members, including members *ex officio*, to establish, maintain and operate or to maintain and operate, as the case may be, any hospital under this Act.

Corporate
status

(2) Every board is a body corporate.

Vacancies

(3) Vacancies in a board may be filled from time to time by the Lieutenant Governor in Council.

Director
and staff

(4) A board may employ a director and such other officers and staff as are from time to time required for its purposes, and may pay the director, other officers and staff such remuneration as it deems proper out of its funds.

By-laws

(5) Subject to the approval of the Lieutenant Governor in Council, a board may make such by-laws, rules and regulations as it deems expedient for the administration of its affairs.

Agreements

(6) Subject to the approval of the Lieutenant Governor in Council, a board may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out its objects.

Funds

(7) The funds of a board consist of moneys received by it from any source and the board may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it deems proper.

Audit of
accounts

(8) The accounts of a board shall be audited annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the board.

Annual
report

(9) A board shall after the close of each fiscal year make a report upon its affairs during the preceding year to the Minister and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the board during the preceding year. 1960, c. 9, s. 4.

Superinten-
dent

5. Subject to the direction of the Minister or, where there is a board, the board, the superintendent of a hospital under this Act shall be in charge of and have control over it and he shall superintend the conduct and management of its affairs and shall control its other officers and staff and the patients therein. 1960, c. 9, s. 5.

6. The Lieutenant Governor in Council may designate any hospital under this Act that has a board as a hospital within the meaning of *The Public Hospitals Act* for the purpose of entitling it to receive grants under that Act and its regulations in the same amount and manner as other public hospitals under that Act. 1960, c. 9, s. 6.

7. The Lieutenant Governor in Council may designate any provision of *The Public Hospitals Act* or of the regulations thereunder or any provision of Part II or III of *The Mental Hospitals Act* or of the regulations thereunder as being applicable to any hospital under this Act. 1960, c. 9, s. 7.

Designation
of public
hospital
R.S.O. 1960,
c. 322

Application
of
R.S.O. 1960,
c. 322, and
Parts II and
III of
R.S.O. 1960,
c. 236

8. The real and personal property, business and income of a hospital operated by a board under this Act is not subject to taxation for municipal or provincial purposes. 1960, c. 9, s. 8, *amended*.

Taxation

9. The Lieutenant Governor in Council may make regulations with respect to hospitals under this Act for,

Regulations

- (a) their creation, establishment, construction, alteration, equipment, safety, maintenance and repair;
- (b) their inspection, control, government, management, conduct, operation and use;
- (c) their superintendents, other officers and staffs and the powers and duties thereof;
- (d) their classifications, grades and standards, and the classification of patients, and the length of stay of and rates and charges for patients;
- (e) the admission, treatment, care, conduct, control, custody and discharge of patients or any class of patients;
- (f) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 9, s. 9.

CHAPTER 57

The Chiropody Act**1.** In this Act,Interpre-
tation

- (a) "Board" means the Board of Regents appointed under this Act;
- (b) "chiroprapist" means a person, other than a duly qualified medical practitioner, who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human foot;
- (c) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 54, s. 1.

2.—(1) The Board of Regents is continued and shall be composed of five persons appointed by the Lieutenant Governor in Council. Board of Regents

(2) Every member of the Board shall hold office for a period of two years, but is eligible for re-appointment on the expiration of his term of office. Term of office

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies

(4) The Lieutenant Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. R.S.O. 1950, c. 54, s. 2. Chairman, vice-chairman and secretary-treasurer

3. The Board, with the approval of the Lieutenant Governor in Council, may make regulations, Regulations

- (a) for the admission of chiroprapists to practise in Ontario and for the registration of all persons so admitted and for the issuing of certificates of registration;

- (b) prescribing the training and qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for approval of schools, colleges or universities, and prescribing educational standards, methods and hours of training and instruction facilities, and other requirements for approved schools, colleges or universities;
- (d) providing for the appointment of examiners and the examination and re-examination of applicants for registration as chiropodists, prescribing the subjects for examination, the minimum standards to be obtained on examination or re-examination, and the fees to be paid on examination and re-examination;
- (e) for maintaining a register of persons so admitted to practise, and providing for the annual renewal of registration and prescribing the fees to be paid therefor;
- (f) providing for the holding of meetings of the Board, the business to be transacted thereat, the quorum and the powers and duties of the Board and of the chairman, vice-chairman and secretary-treasurer of the Board;
- (g) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board, and payment of compensation to the secretary-treasurer of the Board in lieu of a per diem allowance;
- (h) providing for the employment of such persons or services as may be required and for the payment of salaries, fees and expenses and generally for payment out of funds at the disposal of the Board;
- (i) prescribing the books and records to be kept by the Board;
- (j) providing for the auditing of the books and accounts of the Board;
- (k) prescribing the discipline and control of registered chiropodists and regulating the manner of carrying on their business;

- (l) designating and regulating the manner in which a registered chiropodist may describe his qualification or occupation and prohibiting the use of any title, affix or prefix that in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by section 53 of *The Medical Act* that in the opinion of the Board will correctly describe the qualification or occupation of such person; R.S.O. 1960,
c. 234
- (m) providing for the investigation of any complaint that a registered chiropodist has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (n) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or of any contravention of this Act or the regulations, or to have been ignorant or incompetent;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 54, s. 3.

4. Nothing in this Act or the regulations authorizes a chiropodist, Act does not
authorize
general
practice of
medicine

- (a) to administer a drug internally or to prescribe a drug for use internally;
- (b) to administer an anaesthetic other than a substance applied externally to the skin; or
- (c) to practise medicine, surgery or midwifery,

but nothing in this Act or the regulations prevents the treatment by a registered chiropodist of morbid conditions of the nails and skin and the resulting minor morbid conditions of the subcutaneous tissues of the human foot. R.S.O. 1950, c. 54, s. 4.

5. Every person who, not being registered as a chiropodist under this Act or who having been so registered and whose registration has been cancelled or is under suspension, practises or holds himself out as practising as a chiropodist within the meaning of this Act, or who advertises or uses or affixes any Penalty for
unauthorized
practice

prefix to his name signifying that he is qualified to practise as a chiropodist within the meaning of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 and upon conviction for a subsequent offence within a period of two years after such first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1950, c. 54, s. 5.

Proof of
registration

6.—(1) In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, is sufficient evidence of all persons who are registered chiropodists in lieu of the production of the original register, and any certificate upon the printed or other copy of the register purporting to be signed by a person in his capacity of secretary-treasurer of the Board under this Act is *prima facie* proof that the person is the secretary-treasurer.

Evidence
of non-
registration

(2) The absence of the name of a person from the copy is *prima facie* proof that the person is not registered under this Act.

Omission of
name from
copy

(3) In the case of a person whose name does not appear in the copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of the person on the register is *prima facie* proof that the person is registered under this Act. R.S.O. 1950, c. 54, s. 6.

Where Act
does not
apply

7. Nothing in this Act applies to or affects,

- (a) the practice of any profession or calling under any general or special Act of the Legislature;
- (b) any nurse acting in the absence of, or under the prescription or direction of, a duly qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1950, c. 54, s. 7.

Compliance
with other
statutes not
affected
R.S.O. 1960,
cc. 321, 412,
419

8. Nothing in this Act or the regulations shall be taken or deemed to relieve any person from compliance with *The Public Health Act, The Vaccination Act, The Vital Statistics Act* or any legal duty to provide for the treatment of a person by a duly qualified medical practitioner. R.S.O. 1950, c. 54, s. 8.

CHAPTER 58

The Collection Agencies Act**1. In this Act,****Interpre-
tation**

- (a) “collection agency” means a person, other than a collector, who carries on the business of collecting debts for other persons or of receiving money periodically from persons for distribution to creditors of such persons in consideration of the payment of a commission or other remuneration, and includes a person who takes an assignment of debts in consideration of such payment;
- (b) “collector” means a person employed, appointed or authorized by a collection agency to solicit business or collect debts for the agency;
- (c) “licence” means a licence issued under this Act;
- (d) “prescribed” means prescribed by this Act or the regulations;
- (e) “registrar” means the person designated by the Superintendent to act as registrar for the purposes of this Act and the regulations;
- (f) “regulations” means the regulations made under this Act;
- (g) “Superintendent” means the Superintendent of Insurance. R.S.O. 1950, c. 56, s. 1; 1953, c. 16, s. 1.

2. The Superintendent shall administer this Act and the regulations and may designate a person to act as registrar. R.S.O. 1950, c. 56, s. 2.

**Adminis-
tration****3. No person shall,****Agency,
branch office
and collector
to be
licensed**

- (a) carry on the business of a collection agency;
- (b) operate a branch office of a collection agency; or
- (c) carry on business as a collector,

except under a licence therefor. R.S.O. 1950, c. 56, s. 3.

Application
for licence
as collection
agency

4.—(1) Every application for a licence as a collection agency shall be made to the registrar upon the form provided by the registrar and shall be accompanied by,

- (a) the prescribed fee;
- (b) copies of forms of agreement to be entered into with the collection agency by persons for whom the collection agency acts;
- (c) copies of forms and letters that the collection agency uses or proposes to use in making demands for the collection of money; and
- (d) a bond in such amount and form, subject to section 12, as the regulations prescribe.

Type of
bond

(2) The bond shall be,

R.S.O. 1960,
c. 168

- (a) the bond of a guarantee company approved under *The Guarantee Companies Securities Act*;
- (b) a personal bond accompanied by collateral security; or
- (c) the bond of a guarantor, other than a guarantee company, accompanied by collateral security.

Collateral
security

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations not less in value than the sum secured by the bond, and shall be deposited with the Treasurer of Ontario. R.S.O. 1950, c. 56, s. 4.

Application
for licence
as collector

5. Every application for a licence as a collector shall be made to the registrar upon the form provided by the registrar, and shall be accompanied by the prescribed fee and such other information as the registrar requires. R.S.O. 1950, c. 56, s. 5.

Licences

6.—(1) The Superintendent, upon the recommendation of the registrar, may issue a licence to any person,

- (a) to carry on business as a collection agency;
- (b) carrying on business as a collection agency, to operate a branch office thereof; or
- (c) to carry on business as a collector,

and every licence and renewal of licence expires on the 31st day of March in each year.

(2) Any licence issued under this Act may be renewed ^{Renewal of licence} from year to year if application for renewal is made in the prescribed form not later than the 21st day of March before the expiration of the licence or the latest renewal thereof, and every such application shall contain a statement of any change in the facts set out in the application for a licence or any prior application for renewal, and shall be accompanied by the prescribed fee.

(3) The Superintendent may refuse to issue or renew any ^{Licence may be refused} licence and may suspend or cancel any licence.

(4) The Treasurer of Ontario, upon the recommendation of ^{Refunds} the registrar, may refund to an applicant for a licence ^{or} renewal any fee or part thereof paid by the applicant.

(5) The registrar may reduce the amount of any fee payable ^{Reductions} for a licence or renewal where any substantial part of the licence period or renewal period has elapsed. R.S.O. 1950, c. 56, s. 6.

7.—(1) Every collection agency shall within ten days ^{Changes in information filed} notify the registrar in writing of,

- (a) any change in its address for service;
- (b) any change in its officials or members; and
- (c) the commencement and termination of employment of every collector.

(2) Every collector shall within ten days of the event ^{Notice as to employment} notify the registrar in writing of,

- (a) any change in his address for service; and
- (b) the commencement and termination of his employment by a collection agency. R.S.O. 1950, c. 56, s. 7.

8. In the event that a collection agency alters or changes ^{Changes in material filed} any form of agreement or other form or letter, it shall file the form or letter showing the alteration or change made therein with the registrar at least fourteen days before the form or letter is used. R.S.O. 1950, c. 56, s. 8.

9. Every collection agency shall file with the registrar, ^{Financial statement to be filed} with every application for a renewal of a licence, a certificate satisfactory to the Superintendent as to its financial condition, signed by the proprietor or an official or member of the

collection agency and by an independent accountant satisfactory to the Superintendent and, in addition thereto, the Superintendent may at any time require a financial statement in any form to be furnished by the collection agency. R.S.O. 1950, c. 56, s. 9.

Disposition
of fees

10. The registrar shall cause all moneys, cheques and money orders in respect of fees to be deposited daily with the Treasurer of Ontario for payment into the Consolidated Revenue Fund. R.S.O. 1950, c. 56, s. 10, *amended*.

Where Act
not to apply

11. This Act does not apply,

(a) to a barrister or solicitor in the regular practice of his profession or to his employees;

R.S.O. 1960,
c. 190

(b) to an insurer, agent or broker licensed under *The Insurance Act* to the extent of the business authorized by such licence or to his employees;

R.S.C. 1952,
c. 14
R.S.O. 1960,
cc. 71, 197
R.S.C. 1952,
c. 296

(c) to an assignee, custodian, liquidator, receiver, trustee or other person licensed or acting under the *Bankruptcy Act* (Canada), *The Corporations Act*, *The Judicature Act* or the *Winding-up Act* (Canada) or a person acting under the order of any court;

R.S.O. 1960,
c. 344

(d) to a broker or salesman registered under *The Real Estate and Business Brokers Act*, or an official or other employee of such a broker to the extent of the business authorized by the registration;

1953-54,
c. 48 (Can.)

(e) to a bank to which the *Bank Act* (Canada) applies, the Province of Ontario Savings Office, a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an employee thereof in the regular course of his employment; or

R.S.O. 1960,
c. 222

(f) to an isolated collection made by a person whose usual business is not collecting debts for other persons. R.S.O. 1950, c. 56, s. 11; 1953, c. 16, s. 2.

Forfeiture
of bond

12.—(1) Any bond mentioned in section 4 is forfeited and the amount thereof becomes due and owing by the person bound thereby as a debt due the Crown in right of Ontario,

(a) where the collection agency in respect of which the bond is given or any collector or official of the collec-

tion agency has, in connection with its collection business, been,

- (i) convicted of any criminal offence,
 - (ii) convicted of an offence against any provision of this Act or the regulations, or
 - (iii) a party to civil proceedings in the courts as a result of which judgment has been given against such collection agency, collector or other official for moneys collected for any other person; or
- (b) where proceedings by or in respect of the collection agency, including any member of a partnership, in respect of which the bond is given, have been taken under the *Bankruptcy Act* (Canada) or by way of winding-up, and a receiving order under the *Bankruptcy Act* (Canada) or a winding-up order has been made, R.S.C. 1952, c. 14

and such conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

(2) A bond may be cancelled by any person bound there- Cancellation of bond
under by giving to the Superintendent at least two months notice in writing of intention to cancel, and it shall be deemed to be cancelled on the date stated in the notice, which date shall be not less than two months after the receipt of the notice by the Superintendent.

(3) For the purposes of every act and omission occurring Term of bond
during the period in which a collection agency is licensed or the period prior to cancellation of the bond under subsection 2, every bond shall continue in force and the collateral security, if any, shall remain on deposit for a period of two years after the expiration or cancellation of any licence, or the cancellation of the bond, whichever occurs first. R.S.O. 1950, c. 56, s. 12.

13. Where Her Majesty becomes a creditor of a person Proceedings to enforce forfeiture
in respect of a debt to the Crown arising from section 12, the Superintendent may take such proceedings as he sees fit under the *Bankruptcy Act* (Canada), *The Judicature Act*, R.S.C. 1952, cc. 14, 296
The Corporations Act or the *Winding-up Act* (Canada) for the appointment of an interim receiver, custodian, trustee, R.S.O. 1960, cc. 197, 71
receiver or liquidator, as the case may be. R.S.O. 1950, c. 56, s. 13.

Sale of
collateral
security

14. Where a bond secured by the deposit of collateral security with the Treasurer of Ontario is forfeited under section 12, the Lieutenant Governor in Council may direct the Treasurer to sell the collateral security at the current market price. R.S.O. 1950, c. 56, s. 14.

Assignment
of bond or
payment of
moneys to
creditors

15. The Lieutenant Governor in Council may direct the Treasurer of Ontario,

- (a) to assign a bond forfeited under section 12 and transfer the collateral security, if any;
- (b) to pay over any moneys recovered under the bond;
or
- (c) to pay over any moneys realized from the sale of the collateral security under section 14,

to any person, or to the Accountant of the Supreme Court in trust for such persons and companies as become judgment creditors of the collection agency bonded, or to any trustee, custodian, interim receiver, receiver or liquidator of such collection agency, as the case may be. R.S.O. 1950, c. 56, s. 15.

Where no
claim against
proceeds
of bond

16. Where a bond has been forfeited under section 12 by reason of a conviction or judgment under clause *a* of subsection 1 thereof and the Superintendent has not within two years of such conviction or judgment having become final, or of the collection agency in respect of which the bond was furnished ceasing to carry on business as such, whichever occurs first, received notice in writing of any claim against the proceeds of the bond or of such part thereof as remains in the possession of the Treasurer of Ontario, the Lieutenant Governor in Council may direct the Treasurer to pay such proceeds or part thereof to the collection agency, or to any person who upon forfeiture of the bond made any payments thereunder, after first deducting the amount of any expenses that have been incurred in connection with any investigation or otherwise relating to such collection agency. R.S.O. 1950, c. 56, s. 16.

Agency to
account
within
30 days

17.—(1) Every collection agency shall without any notice or demand, within thirty days after the receipt of any moneys collected, account for all moneys so received and pay them, less the proper fees of such collection agency, to the person entitled thereto, but when the moneys collected are less than \$5, payment to the person entitled thereto shall be made within ninety days.

(2) Every collection agency shall upon demand made by a person entitled to an accounting, or by the Superintendent, account for all moneys received on behalf of such person and pay the moneys, less the proper fees of such collection agency, to such person. Agency to account

(3) Where a collection agency is unable to locate the person entitled to moneys collected by it within six months after they have been collected, it shall cause the moneys to be paid to the Treasurer of Ontario who may pay the moneys to the person entitled thereto upon satisfactory proof being furnished by the person that he is the person entitled to receive them. R.S.O. 1950, c. 56, s. 17. Where person entitled to money cannot be located

18. Every collection agency shall deposit all moneys collected, less the proper earned commission of the collection agency, in a separate trust account in a chartered bank, the Province of Ontario Savings Office or a trust company authorized by law to accept deposits. R.S.O. 1950, c. 56, s. 18. Moneys collected to be deposited

19. Every collection agency shall keep proper records and books of account showing moneys received and moneys paid out and such books shall include a receipt book, cash book, clients' ledger and journal. R.S.O. 1950, c. 56, s. 19. Books of account

20. No collection agency or collector shall, Practices prohibited

- (a) collect or attempt to collect for a person for whom it acts any moneys in addition to the amount owing by the debtor;
 - (b) make any charge against a person for whom it acts in addition to those contained in the form of agreement or in the information pertaining to fees filed with the Superintendent;
 - (c) send any telegram or make any telephone call for which the charges are payable by the addressee or the person to whom the call is made, to a debtor for the purpose of demanding payment of a debt;
 - (d) enter into any agreement with a person for whom the collection agency acts unless a copy of the form of the agreement is filed with the registrar; or
 - (e) use any form or form of letter to collect or attempt to collect money from a debtor unless a copy of the form or form of letter is filed with the registrar.
- R.S.O. 1950, c. 56, s. 20; 1953, c. 16, s. 3.

Notice as
to moneys
collected

21. Every collector shall immediately notify his employer when any moneys are collected by him in the course of his employment. R.S.O. 1950, c. 56, s. 21.

Licence
to be
displayed

22. Every collection agency shall keep its licence and the last renewal thereof displayed in a conspicuous place in its office and shall keep every licence for a branch office together with the last renewal thereof displayed in a conspicuous place in the branch office. R.S.O. 1950, c. 56, s. 22.

Investi-
gation

23. The registrar, or such other person as is directed in writing by the Superintendent, has authority at any time between 9 o'clock in the forenoon and 5 o'clock in the afternoon to enter the premises of a collection agency and examine its books and records. R.S.O. 1950, c. 56, s. 23.

Notice of
direction,
decision,
etc.

24. A notice of every direction, decision, order or ruling of the Superintendent granting or refusing to grant a licence, or refusing to renew a licence, or suspending or cancelling a licence shall be served upon the collection agency or collector whose licence is thereby affected at the address appearing in the application or upon the records of the registrar. R.S.O. 1950, c. 56, s. 24.

Review by
Superin-
tendent

25.—(1) An applicant, collection agency or collector whose licence is affected by a direction, decision, order or ruling referred to in section 24 may, by notice in writing served upon the registrar within thirty days after the mailing of the notice, request a hearing and review by the Superintendent of the direction, decision, order or ruling.

Notice of
hearing

(2) Where a hearing and review are requested under subsection 1, the registrar shall send a notice in writing of the time and place thereof to the person requesting the hearing and review stating the date and place thereof.

Evidence

(3) Upon a review, the Superintendent may hear such evidence as is submitted to him by the person requesting the review or by any other person that in the opinion of the Superintendent is relevant to the review, but he is bound by the technical rules of evidence, and the oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence, forms the record.

Power on
review

(4) Upon a review, the Superintendent may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as he deems proper.

(5) Notice of the order made upon a review shall be sent ^{Notice of} forthwith to the person requesting the review. R.S.O. 1950, c. 56, s. 25.

26.—(1) Where the Superintendent has reviewed a direc- ^{Appeal to} tion, decision, order or ruling under section 25, the person who ^{Supreme} requested the review may appeal to a justice of appeal of the ^{Court} Supreme Court.

(2) Every appeal shall be by notice of motion served upon ^{Form of} the registrar within thirty days after the mailing of the notice ^{appeal} under subsection 5 of section 25 and the practice and procedure upon and in relation to the appeal are the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, but the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure that are applicable to appeals taken under this section.

(3) The registrar shall certify to the Registrar of the ^{Certificate} Supreme Court, ^{of registrar}

- (a) the direction, decision, order or ruling that has been reviewed by the Superintendent;
- (b) the order of the Superintendent upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Superintendent and other material that in the opinion of the registrar are relevant to the appeal.

(4) The Attorney General may designate counsel to assist ^{Counsel} the court upon the hearing of an appeal taken under this section. R.S.O. 1950, c. 56, s. 26.

27. Where an appeal is taken under section 26, the court ^{Order of} may by its order direct the Superintendent to make such ^{court} direction, decision, order or ruling or to do such other act as the Superintendent is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to the provisions of this Act and the regulations, and the Superintendent shall make such direction, decision, order or ruling or do such act accordingly. R.S.O. 1950, c. 56, s. 27.

Further
direction,
etc.

28. An order of the court is final and there is no appeal therefrom, but, notwithstanding such order, the Superintendent has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to sections 24 to 27. R.S.O. 1950, c. 56, s. 28.

Offence

29. Every person who knowingly employs a collection agency not having a licence as required by this Act, or causes or procures letters or notices to be sent or verbal demands to be made upon debtors by a collection agency not having such a licence, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 56, s. 29.

Offence

30. Every collection agency or collector who contravenes any provision of this Act or the regulations for which no other penalty is provided or who fails or neglects to carry out an order or direction of the Superintendent made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 56, s. 30.

Consent
before
action

31. No proceedings under this Act shall be instituted except with the consent or under the direction of the Superintendent. R.S.O. 1950, c. 56, s. 31.

Regulations

32. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of licences and renewals and applications therefor;
- (b) prescribing the fees payable for licences and renewals, and any other fees in connection with the administration of this Act and the regulations;
- (c) requiring collection agencies to make returns and furnish information to the Superintendent;
- (d) prescribing the manner of making deposits and regulating the control and disposition thereof;
- (e) governing the keeping of records, books, accounting systems and audits;
- (f) prescribing the amount and form of bonds to be furnished by collection agencies;

- (*g*) prescribing the classes of negotiable securities that may be accepted as collateral security for a bond;
 - (*h*) prohibiting the use of any particular method in the collection of debts;
 - (*i*) respecting any matter necessary or advisable to to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 56, s. 32.
-

CHAPTER 59

The Commissioners for taking Affidavits Act

1. In this Act, a “county” includes a provisional county and a provisional judicial district. R.S.O. 1950, c. 57, s. 1. Interpretation

2.—(1) Every member of the Assembly is *ex officio* a commissioner for taking affidavits in Ontario. Members of Assembly

(2) Every solicitor of the Supreme Court and every member of the Bar of Ontario is *ex officio* a commissioner for taking affidavits in Ontario. Solicitors and barristers

(3) The clerk and treasurer of every county is *ex officio* a commissioner for taking affidavits in the county, and the clerk and treasurer of every other municipality is *ex officio* a commissioner for taking affidavits in the county or district in which the municipality is situate. Municipal clerks and treasurers

(4) The head of every municipal council, the reeve of every town, every deputy reeve and every controller and alderman of a city is *ex officio* a commissioner for taking affidavits in the county or district in which the municipality is situate. R.S.O. 1950, c. 57, s. 2. Heads of municipal councils, etc.

3. The judges and clerks of the county and district courts may take affidavits required to be taken in their respective courts. R.S.O. 1950, c. 57, s. 3. County and district courts

4. Every commissioner for taking affidavits shall be deemed to be an officer of the Supreme Court. R.S.O. 1950, c. 57, s. 4. Status

5. The Lieutenant Governor may confer upon such officers and employees of the Income Tax Division, the Department National Revenue (Canada) or any department of the Government of Ontario as he designates full power to administer oaths and take affidavits in connection with the performance of their official duties, but limited as the Lieutenant Governor determines. R.S.O. 1950, c. 57, s. 5. Commissioners for specific purposes

6.—(1) The Lieutenant Governor may by commission empower any person of the full age of twenty-one years or over to administer oaths and take affidavits within or without Commissioners for court matters

Ontario in or concerning actions, causes or matters depending in or in anywise concerning any proceeding to be had in any court in Ontario.

Period of appointment

(2) The appointment of every such person appointed within Ontario shall be for a period of three years, but any such appointment may from time to time be renewed for a period of three years.

Style of commissioners

(3) A commissioner so appointed shall be styled "A commissioner for taking affidavits in and for the courts in Ontario".

Indication of expiry of commission

(4) Every commissioner appointed within Ontario under this section shall indicate in writing under his signature the date upon which his commission expires. R.S.O. 1950, c. 57, s. 6.

Extent of commissioner's authority

7. Every commissioner may take any affidavit in anywise concerning any proceeding to be had in any court in Ontario or before a judge of any such court, and in or concerning any application or matter made or pending before any judge of any court in Ontario which by any statute such judge is authorized to hear and determine or in which he is authorized to make an order, although the application or matter be not made or depending in any court. R.S.O. 1950, c. 57, s. 8.

Commissioners may take declarations

8. Every commissioner has power to take declarations in cases in which declarations may be taken or may be required under any Act in force in Ontario. R.S.O. 1950, c. 57, s. 9.

Revocation of commissions

9. The Lieutenant Governor may revoke the commission of any commissioner. R.S.O. 1950, c. 57, s. 10; 1953, c. 17, s. 2, *amended*.

Duty of commissioner, etc., in administration of oath

10. Every oath and declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who shall satisfy himself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before he signs the jurat or declaration. R.S.O. 1950, c. 57, s. 11.

Offence

11. Every commissioner, notary public, justice of the peace or other officer or person administering an oath or declaration who signs a jurat or declaration without the due

administration of the oath or declaration is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1950, c. 57, s. 12, *amended*.

12. Every one who in any action or proceeding or upon ^{Offence} any application or other proceeding out of court, or for the purpose of making or maintaining any claim, files, registers or uses or in any other manner makes use of any oath, affidavit or declaration knowing that it was not taken, sworn to or made in conformity with section 10 is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1950, c. 57, s. 13, *amended*.

13. Upon his conviction for an offence against this Act, the ^{Forfeiture of} commission or appointment of a commissioner for taking affi- ^{commission} davits, notary public or justice of the peace may be cancelled ^{or appoint-} or revoked by the constituting authority. R.S.O. 1950, c. 57, s. 14.

14. The Lieutenant Governor in Council may make regu- ^{Regulations} lations respecting the fees payable to the Crown and the fees receivable by commissioners under this Act. R.S.O. 1950, c. 57, s. 15.

CHAPTER 60

The Community Centres Act

1. In this Act,

Interpre-
tation

(a) “community centre” means a community hall, athletic field, indoor or outdoor swimming pool, skating arena or outdoor skating rink;

(b) “Minister” means the Minister of Agriculture;

(c) “regulations” means the regulations made under this Act. R.S.O. 1950, c. 58, s. 1; 1951, c. 12, s. 1.

2.—(1) The Minister may grant aid to any municipality to ^{Grants} assist in the establishment of a community centre, but no grant shall exceed \$5,000 or 25 per cent of the cost of a building or that part of a building designed for a community hall, indoor swimming pool or skating arena, or of the cost of an athletic field, outdoor swimming pool or outdoor skating rink. R.S.O. 1950, c. 58, s. 2 (1); 1951, c. 12, s. 2 (1).

(2) Grants may be made to assist in the establishment by ^{Idem} any municipality of more than one community centre. R.S.O. 1950, c. 58, s. 2 (2).

(3) Notwithstanding subsection 1, where a building is ^{Combined community hall, swimming pool and skating arena} designed to include both a community hall and an indoor swimming pool or a skating arena, the Minister may make a grant not exceeding \$10,000 or 25 per cent of the total cost of the building or that part of the building designed for the community hall and indoor swimming pool or skating arena. R.S.O. 1950, c. 58, s. 2 (3); 1951, c. 12, s. 2 (2).

(4) The grants are payable out of the moneys appropriated ^{Provision for moneys} therefor by the Legislature. R.S.O. 1950, c. 58, s. 2 (4).

3. All property acquired for the purposes of this Act ^{Property vested in corporation} shall, except as hereinafter provided, be vested in the municipality. R.S.O. 1950, c. 58, s. 3.

4.—(1) The council of any municipality may by by-law ^{By-laws for establishment of community centres} provide for the establishment of one or more community centres in accordance with this Act, and may acquire by

purchase or otherwise real and personal property for that purpose, and may enter into an agreement with the council of any adjoining municipality for the joint use of a community centre by the inhabitants of the municipalities upon such terms as to contribution to the cost of the community centre and as to the maintenance thereof as may be agreed upon, but, notwithstanding any such agreement, the aid granted under this Act shall not exceed the amount mentioned in section 2.

By-law for
acquiring
land in
another
municipality

(2) The by-law may provide for acquiring land and establishing a community centre in an adjacent or contiguous municipality, but real property so acquired or held in an adjacent or contiguous municipality is not exempt from taxation by the municipality in which it is situate unless the council of the last-mentioned municipality by by-law declares that it is exempt.

Exempting
such lands
from
taxation

(3) The council of a municipality in which a community centre is established by the council of another municipality may grant such total or partial exemption from taxation as the council deems proper and may enter into an agreement with the municipality establishing the community centre for granting such exemption.

Debentures

R.S.O. 1960,
c. 249

(4) A municipality may issue debentures for the purposes of subsection 1 in the manner provided by *The Municipal Act*. R.S.O. 1950, c. 58, s. 4.

Interpre-
tation

5.—(1) In this section, "ratepayers" means persons assessed and liable to taxation for general municipal purposes. R.S.O. 1950, c. 58, s. 5 (2), *part*.

Community
centre for
school
sections

(2) Upon a petition being presented to the council of a township, signed by more than one-half the number of ratepayers in a school section or by more than one-half the number of ratepayers in each of two or more school sections or parts thereof in the township, praying that the council pass a by-law for the establishment of a community centre for such school section or sections or parts, the council may pass a by-law for the establishment of such community centre in any school section or in any village adjacent or contiguous thereto. R.S.O. 1950, c. 58, s. 5 (1).

Issue of
debentures

(3) The moneys required for the establishment of a community centre under this section may be raised by the issue of debentures of the township in the manner provided by *The Municipal Act*, but it is not necessary to procure the assent of the ratepayers for the passing of a by-law for the

issue of such debentures, and all moneys required to provide for principal and interest on the debentures issued under this section or for any other purpose in connection with the establishment of a community centre for a school section shall be raised by special rate upon all property subject to municipal taxation in the school section or sections or parts. R.S.O. 1950, c. 58, s. 5 (2), *part*.

(4) Notwithstanding subsection 3, where there are profits from the operations of a community centre, the board of management may apply the profits or part of the profits to the principal and interest on any debentures issued under this section. Use of profits to pay off debentures

(5) Where debentures are issued under this section, such debentures constitute a debt of the corporation of the township to the holder of the debentures, and the property liable to assessment and taxation in the school section or sections or parts is liable to the township as a whole for any amounts paid by the township on account of the debentures or interest thereon. Debentures to be a debt of township

(6) Where a township council has passed a by-law for establishing a community centre for a school section, the township council by by-law, upon request of the board of school trustees, may vest the property in the board which thereupon has power to hold the property and shall perform the functions of the board of management as set forth in section 6. Property may be vested in board of school trustees

(7) In the case of a union school section composed of parts of two adjacent counties, the council of the municipality that passes the by-law for the establishment of a community centre has all the powers and shall perform all the duties that may be exercised or are to be performed under this Act in the same manner as if the whole of the school section were within the said municipality, and the lands in the union school section shall, for the purposes of this Act, be deemed to lie wholly within and to be under the exclusive jurisdiction of the council passing the by-law. In union school sections

(8) The clerk of the municipality shall, forthwith after the passing of the by-law imposing the special rate to pay the cost of the establishment of a community centre, deliver or transmit by registered mail to the clerk of every municipality in which is situate any land upon which a special rate has been imposed a certified copy of the by-law. Transmission of copy of by-law

Collection
of rates
in union
sections

(9) The rates required by the by-law to be levied and collected in any year upon land in a municipality, other than that by the council of which the by-law is passed, shall be collected by the council of such municipality in like manner as if the rates had been imposed by that council.

Payment of
share by
other
municipalities

(10) The municipality, other than that by the council of which the by-law is passed, shall pay to the last-mentioned municipality the sums that are to be levied and collected in that year under subsection 9, and such payments shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Lands to
remain
liable

(11) Such payments shall not relieve any lands specially assessed from the special rate thereon, and such lands remain liable for the special rate until it is paid.

Township
school areas

(12) Where a township school area has been established, this section applies *mutatis mutandis* to the area or any part thereof. R.S.O. 1950, c. 58, s. 5 (3-11).

Composition
of board

6.—(1) Every community centre established by a municipality under this Act shall be under the management and control of a board appointed by the council of the municipality and composed of not fewer than three and not more than seven persons who are qualified to be elected as members of the council and, where the board is composed of five or more persons, at least two shall be members of the council. 1954, c. 9, s. 1 (1); 1959, c. 16, s. 1.

Joint board

(2) The council may appoint one board in the manner provided in subsection 1 to manage and control any or all community centres established by the municipality. R.S.O. 1950, c. 58, s. 6 (2).

Appoint-
ments

(3) The members of the board shall be appointed annually by the council.

Quorum

(4) A majority of the members of the board shall be a quorum. 1954, c. 9, s. 1 (2).

Board may
make rules
and fix
charges

(5) The board of a community centre may make such rules as it deems necessary relating to the management and control thereof and may fix such charges for the use of the community centre as it deems advisable. R.S.O. 1950, c. 58, s. 6 (5).

7. Any municipality entering into an agreement for the joint use of a community centre, and any of the societies or other bodies by which a community centre may be used under the regulations, may make grants out of any moneys in their hands in aid of the erection and maintenance of a community centre established under this Act. R.S.O. 1950, c. 58, s. 7. ^{Grants in aid}

8. The Minister may make grants to a public, separate, continuation or high school board, or board of education, to provide for an athletic field of satisfactory area, an outdoor swimming pool or an outdoor skating rink, on the same terms as set forth in this Act, except that such fields, pools and rinks shall be managed and conducted by the school board or board of education under the regulations of the Department of Education, and such property shall be vested in the school board or board of education, provided always that such fields, pools and rinks shall be available for the purposes permitted by the regulations. R.S.O. 1950, c. 58, s. 8; 1951, c. 12, s. 3. ^{Grants to school boards}

9. Where aid has been granted under this Act to assist in building a community centre out of moneys appropriated by the Legislature, the community centre shall not be sold or disposed of within twenty years from the time the aid was last granted without the approval of the Minister. R.S.O. 1950, c. 58, s. 9. ^{Disposal of community centres}

10. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing the terms and conditions upon which aid may be granted under this Act;
 - (b) prescribing the uses to which a community centre may be put and the accommodation that may be provided therein;
 - (c) prescribing the powers and duties of boards of management and providing for the appointment of officers of such boards;
 - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 58, s. 10.
-

CHAPTER 61

The Conditional Sales Act

1. In this Act,

Interpre-
tation

- (a) "contract" means a conditional sale contract and includes a hire receipt;
- (b) "goods" includes wares and merchandise;
- (c) "purchaser" includes a proposed purchaser and a hirer;
- (d) "sale" includes a hiring;
- (e) "seller" includes a lender for hire;
- (f) "sold" includes lent for hire. R.S.O. 1950, c. 61, s. 1, *amended*.

2.—(1) Where possession of goods is delivered to a purchaser of them under a contract which provides that the ownership is to remain in the seller until payment of the consideration money or part of it, as against a subsequent purchaser or mortgagee claiming from or under the purchaser, without notice, in good faith and for valuable consideration, such provision is invalid and the purchaser shall be deemed to be the owner of the goods, unless,

Invalidity of
conditional
sale accom-
panied by
delivery
against
subsequent
purchaser or
mortgagee
unless

- (a) the contract is evidenced by a writing signed by the purchaser or his agent, stating the terms and conditions of the sale and describing the goods sold; and
- (b) within ten days after the execution of the contract a true copy of it is registered in the office of the clerk of the county or district court of the county or district in which the purchaser resided at the time of the sale and the renewal statement, if any, is registered as provided in section 5.

the contract
is in writing

and a copy
is registered

(2) Subsection 1 applies to the case of a hire receipt where the hirer is given an option to purchase.

Hire
receipts

Goods
delivered
for the
purpose
of resale

(3) Where the delivery is made to a person for the purpose of resale by him in the course of business, such provision is also, as against his creditors, invalid and he shall be deemed to be the owner of the goods unless this Act has been complied with.

Ownership
on resale

(4) Where such person resells the goods in the ordinary course of his business, the property in and ownership of such goods passes to the purchaser notwithstanding that this Act has been complied with.

Manufac-
tured goods,
etc.

(5) Clause *b* of subsection 1 does not apply to a contract respecting manufactured goods, including pianos, organs and other musical instruments, that at the time possession is delivered have the name and address of the seller painted, printed, stamped or engraved thereon or plainly attached thereto, nor to a contract respecting household furniture other than pianos, organs and other musical instruments.

Error in
name or
description

(6) An error or inaccuracy in the name or address of the seller that does not mislead does not prevent the application of subsection 5. R.S.O. 1950, c. 61, s. 2 (1-6), *revised*.

Late

(7) Where a true copy of a contract is not duly registered within the time prescribed by clause *b* of subsection 1, the judge of the county or district court of the county or district in which the purchaser resided when the contract was made may permit it to be registered at a later date upon being satisfied by affidavit that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the provision of the contract mentioned in subsection 1 shall be deemed to be effective as against creditors of and subsequent purchasers or mortgagees claiming from or under the purchaser, without notice, in good faith and for valuable consideration, only from the actual date of registration, and, for the purpose of registering a renewal statement, such true copy shall be deemed to have been registered on the actual date of registration.

Interpre-
tation

(8) The word "creditors" in subsection 7 means creditors of a purchaser to whom goods have been delivered for the purpose of resale by him in the course of business. 1959, c. 17, s. 1, *revised*.

Rolling
stock

3.—(1) This Act does not apply to a contract for the sale of rolling stock by an incorporated company to a railway company if the contract or a copy of it is filed in the office of the Provincial Secretary within ten days from its execution.

(2) A contract under subsection 1 may be discharged by Discharge filing in the office of the Provincial Secretary a certificate signed by the seller to the effect that all moneys due under it have been satisfied. 1955, c. 6, s. 2.

4. The seller shall deliver a copy of the contract to the purchaser within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so the judge of the county or district court of the county or district in which the purchaser resided when the contract was made may, on summary application, make an order for the delivery of such copy. Copy of contract to be given to purchaser R.S.O. 1950, c. 61, s. 3.

5.—(1) Every contract of which a copy has been registered under this Act ceases to be valid as against the creditors of the purchaser and as against subsequent purchasers claiming from or under such purchaser, without notice, in good faith and for valuable consideration, at the expiration of three years from the day of the registration of such copy unless, within thirty days next preceding the expiration of three years from the day of the registration of such copy, a renewal statement (Form 5) has been registered in the same office in which the original copy of the contract was registered showing, Renewal statement to be filed

- (a) the name and residence of the seller and the name and residence of the purchaser;
- (b) a brief description of the goods;
- (c) the amount of the contract price and an itemized statement of all payments, if any, made on account thereof, and the unpaid balance.

(2) The renewal statement shall be signed by the seller or his assignee, personal representative or agent, and shall be verified by the affidavit (Form 6) of such seller, assignee, personal representative or agent having personal knowledge of the matters required to be verified, and the affidavit of such assignee, personal representative or agent shall state that he has such knowledge. Who to sign renewal statement

(3) Every contract in respect of which a renewal statement has been registered under this Act ceases to be valid as against the creditors of the purchaser and as against subsequent purchasers claiming from or under such purchaser, without notice, in good faith and for valuable consideration, at the expiration of three years from the day of the registration of such renewal statement unless, within thirty days next preceding the expiration of three years from the day of the Validity of renewal statement

registration of such renewal statement, a further renewal statement in like form has been registered in the same office.

Hire receipt

(4) This section applies to the case of a hire receipt where the hirer is given an option to purchase.

Court order may be obtained to permit later filing

(5) Where a renewal statement is not duly registered within the time prescribed by this section, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the renewal statement shall, as against creditors of the purchaser and as against subsequent purchasers claiming from or under such purchaser, without notice, in good faith and for valuable consideration, who have become creditors, mortgagees or purchasers after the expiry of the contract but before registration, be deemed to have been executed and to be effective only from the date of registration, and, for the purposes of registration of any further statement of renewal, such statement of renewal shall be deemed to have been registered on the actual date of registration. R.S.O. 1950, c. 61, s. 4, *revised*

Interpretation

(6) The word "creditors" in this section means creditors of a purchaser to whom goods have been delivered for the purpose of resale by him in the course of business. 1959, c. 17, s. 2, *revised*.

Fees

6. The clerk of the county or district court shall make a record of every contract or renewal statement of which a copy is registered in his office under this Act in an index book to be kept for that purpose and is entitled to the following fees for services under this Act:

- 1. For registering a copy of a contract or a renewal statement or an assignment or a certificate of discharge..... \$1.00
- 2. For a search..... .50
- 3. For a certificate of registration of a copy of a contract or document..... .50
- 4. For copies of a copy of a contract or document and certifying the same, for every 100 words..... .20
- 5. For production and inspection of a copy of a contract or document..... .10

7. An error of a clerical nature or in an immaterial or non-essential part of the copy of the contract or renewal statement that does not mislead does not invalidate the registration or destroy the effect of it. R.S.O. 1950, c. 61, s. 6, *revised*. Immaterial errors

8.—(1) The seller shall, within five days after the receipt of a request in writing from the purchaser of any goods to which this Act applies, or from any other person interested, furnish particulars of the amount remaining due to him and the terms of payment of it, and in default he is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. Seller's duty to give particulars of claim

(2) If the request is by letter, the person making the request shall give a name and post office address to which a reply may be sent, and it is sufficient if the information is given by registered letter deposited in the post office within the prescribed time addressed to the person inquiring at his proper post office address, or, where the name and address are given by him, by the name and at the post office address so given. R.S.O. 1950, c. 61, s. 7, *revised*. How particulars to be given

9.—(1) Where the seller retakes possession of the goods for breach of condition, he shall retain them for twenty days, and the purchaser or his successor in interest may redeem the goods within that period on payment of the amount then in arrear, together with interest and the actual costs and expenses of taking and keeping possession. Seller's duty after retaking

(2) Where the purchase price of the goods exceeds \$30 and the seller intends to look to the purchaser for any deficiency on a resale, the goods shall not be resold until after notice in writing of the intention to sell has been given to the purchaser or his successor in interest. Seller's notice of intention to sell

(3) The notice shall contain,

What notice to contain

- (a) a brief description of the goods;
- (b) an itemized statement of the balance of the contract price due and the actual costs and expenses of taking and keeping possession up to the time of the notice;
- (c) a demand that the amount as stated in the notice shall be paid on or before a day mentioned, which day shall not be less than twenty days from the day of retaking possession of the goods;

- (d) a statement that, unless the amount stated in the notice is paid within the time mentioned, the goods will be sold either at private sale or advertised and sold by public auction, and that the seller intends to look to the purchaser for any deficiency occasioned by any resale.

Service of
notice

(4) The notice shall be served personally upon or left at the residence or last known place of abode in Ontario of the purchaser or his successor in interest at least five days before the date set out in the notice for payment or may be sent by registered mail at least seven days before the date set out in the notice for payment addressed to the purchaser or his successor in interest at his last known post office address.

Time for
giving
notice

(5) The notice may be given during the twenty days mentioned in subsection 1.

Application
of section

(6) This section applies notwithstanding an agreement to the contrary. R.S.O. 1950, c. 61, s. 8, *revised*.

Goods
affixed
to realty
subject to
rights of
seller

10.—(1) Subject to subsection 2 and section 14, where the goods, other than building material, have been affixed to realty, they remain subject to the rights of the seller as fully as they were before being so affixed, but the owner of the realty or any purchaser or any mortgagee or other encumbrancer thereof has the right, as against the seller or other person claiming through or under him, to retain the goods upon payment of the amount owing on them.

Mining
machinery
subject to
rights of
seller

(2) Where the goods consist of mining machinery or appliances on a mining claim for which the patent or lease, as the case may be, has not issued, they remain subject to the rights of the seller whether they have been affixed to the realty or otherwise as fully as they were before being so affixed, and the contract or a copy thereof may be registered with the recorder of the mining division in the same manner as a contract may be registered with the clerk of a county or district court, and the provisions of this Act with regard to registering a renewal statement and a discharge apply *mutatis mutandis*.

Registration
to be notice
of contract

(3) The registration of a contract as provided in subsection 2 shall be deemed to be actual notice to a creditor, subsequent purchaser or mortgagee of such goods or realty. R.S.O. 1950, c. 61, s. 9, *revised*.

Right of
landlord
distressing
to pay off
vendor's lien

11. Where the goods are in or upon premises with respect to which rent is in arrears, the landlord or other person exercising the right of distress has the right to distress the goods

upon payment of the amount owing thereon to the seller or other person claiming through or under him, and the landlord may add the amount so paid to his claim for the rent. R.S.O. 1950, c. 61, s. 10, *revised*.

12. Where a contract has been made out of Ontario with reference to goods not then in Ontario which if made in Ontario with reference to goods in Ontario would come within this Act, or where under the law governing the contract the seller has the right of revendication or to resume possession of the goods notwithstanding the possession of the purchaser upon default in payment of the price or the insolvency of the purchaser, and the goods are brought into Ontario, the contract is subject to this Act, but the period for registering in the office of the clerk of the county or district court of the county or district in which the purchaser resided at the time of the sale is within twenty days after the date on which the goods are brought into Ontario, and a caution under oath stating the nature of the agreement and of the right claimed may be registered in lieu of a true copy of the contract. R.S.O. 1950, c. 61, s. 11, *revised*.

Contract made out of Ontario and goods subsequently brought into Ontario

13. A contract may be discharged by registering in the office of the clerk of the county or district court in which a copy of the contract was registered a certificate (Form 3) that all moneys due thereunder have been satisfied, or to the like effect, signed by the seller and verified by affidavit of a subscribing witness, and the clerk of the court shall, upon receiving the certificate, write the words "See discharge number (*stating the number of the certificate*)" opposite the place where the number of the contract has been entered in the index book kept for that purpose and he shall also endorse a similar memorandum upon the instrument discharged. R.S.O. 1950, c. 61, s. 12 (1, 2), *revised*.

Discharge of contract

14.—(1) In addition to any other registration made under this Act, notice of a contract (Form 1) may be registered in the proper registry or land titles office, and shall set out,

Notice of contract may be registered in registry or land titles office

- (a) the name and residence of the seller and the purchaser;
- (b) a brief description of the goods sold;
- (c) the amount owing on the goods sold;
- (d) a description of the land upon which the goods are affixed or placed or are to be affixed or placed, sufficient for the purpose of registration, and where the

R.S.O. 1960,
c. 204

land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which the land is registered in the land titles office.

Form of
notice and
affidavit
verifying

(2) The notice shall be signed by the seller or his assignee, personal representative or agent, and shall be verified by the affidavit (Form 2) of the seller or his assignee, personal representative or agent having personal knowledge of the matters required to be verified, and the affidavit of the assignee, personal representative or agent shall state that he has such knowledge.

Registration
to be notice
to purchaser
or mortgagee
of land

(3) The registration of a contract under this section shall be deemed to be actual notice to the owner of the land or an interest therein or to a subsequent purchaser, mortgagee or other encumbrancer of the land or an interest therein.

Rights of
mortgagee or
chargee

(4) Where the goods have become affixed to the land or are fixtures and there is already registered against the land a mortgage or charge, all payments or advances made on the mortgage or charge after the goods have become affixed or have become fixtures and before registration of notice of the contract under this section have priority over the rights of the seller under the contract.

Fee for
registration

(5) The fee for registration of such a notice is \$1.

Discharge

(6) A notice of a contract registered under this section may be discharged by a certificate (Form 4) signed by the seller or his assignee, personal representative or agent, accompanied by an affidavit of execution, except that an affidavit of execution is not necessary where the discharge is executed under the seal of a corporation.

Fee for
discharge

(7) The fee for registration of such a discharge is 50 cents. R.S.O. 1950, c. 61, s. 13, *revised*.

Affidavits,
etc.,
in case of a
corporation

15.—(1) Where a seller or his assignee, personal representative or agent is a corporation, any officer, employee or agent of the corporation may make any verifying affidavit or sign any notice or renewal statement under this Act on behalf of the corporation.

Contents of
affidavit by
a corporation

(2) Where a verifying affidavit is made on behalf of a corporation, it shall state that the deponent has personal knowledge of the facts therein deposed to. 1958, c. 12, s. 1.

The Conditional Sales Act

FORM 1

(Section 14 (1))

NOTICE OF CONDITIONAL SALE CONTRACT OR HIRE RECEIPT

I, , of the
 (name of seller, or as the case may be)
 of
 (residence) *(seller, or as the case may be)*
 hereby give notice that.....
 (brief description of goods)
 under a conditional sale contract (or hire receipt) to.....
 (name of purchaser)
 of the..... of.....
 (residence)

The amount owing thereon is \$.....

The following is a description of the land upon which the goods are affixed or placed or are to be affixed or placed:

This notice is given for the purpose of registration in the registry (or land titles) office of.....
(city, county or district)

Dated this.....day of....., 19.....

(signature of seller, or as the case may be)

R.S.O. 1950, c. 61, Form 1.

The Conditional Sales Act

FORM 2

(Section 14 (2))

AFFIDAVIT VERIFYING NOTICE

I, _____, named in the
(name of seller, or as the case may be)
above (or attached) notice, make oath and say:

1. That the facts set out in such notice are true.

(Where the affidavit is made by the assignee, personal representative or agent, or by an officer of a corporation, a clause to the following effect must be added:)

2. That I have full knowledge of the facts set forth in such notice.

Sworn, etc.

(signature of seller, or as the case may be)

R.S.O. 1950, c. 61, Form 2.

The Conditional Sales Act

FORM 3

(Section 13)

DISCHARGE

I certify that.....
has paid all money payable to me under a conditional sale agreement
(or hire receipt) dated the.....day of.....,
19....., signed by him and registered on the.....day of
....., 19....., as No.....

(NOTE:—*The signature of the seller, or as the case may be, must be
proved by the affidavit of a subscribing witness.*)

.....
(signature of the seller, or as the case may be)

.....
witness

R.S.O. 1950, c. 61, Form 3.

The Conditional Sales Act

FORM 4

(Section 14 (6))

CERTIFICATE OF DISCHARGE

The lien registered by.....
(name of seller, or as the case may be)
of the.....of.....,
(residence) (occupation)
upon the following lands:
.....
(description of lands)

dated the.....day of....., 19....., and
registered the.....day of....., 19.....,
as No.....in the registry (or land titles) office for the
..... is discharged.
(city, county or district)

.....
(signature of seller, or as the case may be)

R.S.O. 1950, c. 61, Form 4.

The Conditional Sales Act

FORM 5

(Section 5 (1))

RENEWAL STATEMENT

Statement exhibiting the interest of.....

 (name of seller, or as the case may be)
 of the of the.....
 (residence) (seller, or as the case may be)
 of

 (brief description of goods)
 mentioned in the contract made between.....
 of the of as.....
 (residence) (seller, or as the case may be)
 and of the of.....
 (residence)
 as a copy of which conditional sales
 (purchaser, or as the case may be)
 contract (or hire receipt) was filed in the office of the clerk of the.....
 court of the of..... on
 the day of....., 19....., and of the
 unpaid balance.
 Contract price..... \$.....
 Payments on account \$.....
 Unpaid balance..... \$.....

Dated this.....day of....., 19.....

.....
 (signature of seller, or as the case may be)

R.S.O. 1950, c. 61, Form 5.

The Conditional Sales Act

FORM 6

(Section 5 (2))

AFFIDAVIT VERIFYING RENEWAL STATEMENT

I,, named in the
 (name of seller, or as the case may be)
 above (or attached) renewal statement, make oath and say:

1. That the facts set out in such statement are true and the conditional sale contract (or hire receipt) mentioned in this affidavit is not being kept on foot for fraudulent purposes.

(Where the affidavit is made by the assignee, personal representative or agent of the seller or lender or by an officer of a corporation, a clause to the following effect must be added:)

2. That I have full knowledge of the facts set forth in the above (or attached) renewal statement.

Sworn, etc.

.....
 (signature of seller, or as the case may be)

R.S.O. 1950, c. 61, Form 6.

CHAPTER 62

The Conservation Authorities Act**1. In this Act,**Interpre-
tation

- (a) “administration costs” means salaries and travelling expenses of members and employees of the authority; office rent, maintenance and purchase of office equipment; purchase and maintenance of equipment for conservation work such as earth-moving machinery and tree-planting machines; expenses connected with exhibits, visual equipment, printed matter for educational purposes; assistance for farm planning, farm ponds, the investigation of reforestation lands and the securing of options, and other conservation projects; the preliminary investigations and engineering of proposed schemes; and all expenditures necessary for carrying out the conservation work of the authority other than capital expenses and maintenance of approved schemes;
- (b) “advisory board” means an advisory board appointed by an authority;
- (c) “authority” means a conservation authority established under this Act;
- (d) “chief officer” means the chief officer of an authority;
- (e) “executive committee” means the executive committee appointed by an authority;
- (f) “land” includes buildings and any estate, term, easement, right or interest in, to, over or affecting land;
- (g) “Minister” means the Minister of Planning and Development;
- (h) “municipality” means a city, town, village or township;
- (i) “owner” includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest,

or a guardian, executor, administrator or trustee in whom land or any interest therein is vested;

(j) "participating municipality" means, subject to section 3, a municipality which,

(i) is either wholly or partly within a watershed,

(ii) may benefit by a scheme established therein, and

(iii) is declared by the Lieutenant Governor in Council to be a participating municipality for the purposes of such scheme;

R.S.O. 1960,
c. 252

(k) "referee" means a referee appointed under *The Municipal Drainage Act* having jurisdiction over that part of Ontario in which the watershed is situate;

(l) "scheme" means a scheme undertaken by an authority for the purposes of the conservation, restoration and development of natural resources, other than gas, oil, coal and minerals, and the control of water in order to prevent floods and pollution, or for any of such purposes;

(m) "watershed" means an area drained by a river and its tributaries. R.S.O. 1950, c. 62, s. 1; 1952, c. 11, s. 1; 1954, c. 10, s. 1.

Calling of
meeting

2.—(1) Where the councils of any two or more municipalities situate either wholly or partly within a watershed by resolution request the Minister to call a meeting for the establishment of a conservation authority for the watershed or any defined part thereof, the Minister shall fix a time and place for such a meeting and shall forthwith notify the council of every municipality either wholly or partly within the watershed or such part thereof. R.S.O. 1950, c. 62, s. 3 (1); 1954, c. 10, s. 3, cl. (a).

Representatives at
meeting

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers:

1. Where the population is 250,000 or more, five representatives.

2. Where the population is 100,000 or more but less than 250,000, four representatives.

3. Where the population is 50,000 or more but less than 100,000, three representatives.
4. Where the population is 10,000 or more but less than 50,000, two representatives.
5. Where the population is less than 10,000, one representative. R.S.O. 1950, c. 62, s. 3 (2), *part*; 1954, c. 10, s. 4.

(3) The representatives so appointed have authority to vote and generally act on behalf of their respective municipalities at such meeting. R.S.O. 1950, c. 62, s. 3 (2), *part*. Authority of
represent-
atives

(4) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not less than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time. R.S.O. 1950, c. 62, s. 3 (3). Quorum

3.—(1) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under section 2 and at which a quorum was present, by not less than two-thirds of the representatives present thereat, requesting the establishment of an authority, the Lieutenant Governor in Council may establish a conservation authority and designate the municipalities that are the participating municipalities and the area over which the authority has jurisdiction. R.S.O. 1950, c. 62, s. 4 (1); 1954, c. 10, s. 3, cl. (b). Establish-
ment of
authority

(2) Where a city, town or village is only partly within the watershed, the Lieutenant Governor in Council may include the whole or that part of the city, town or village in the area over which the authority has jurisdiction. 1952, c. 11, s. 2. Urban
municipi-
palities

(3) The name of each authority shall be determined by the Lieutenant Governor in Council and shall conclude with the words "conservation authority". Name of
authority

(4) Every authority is a body corporate. R.S.O. 1950, c. 62, s. 4 (2, 3). To be body
corporate

(5) Every authority may, for its purposes, borrow on the promissory note of the authority, at such rate of interest as the Minister approves, such moneys as may be required until payment to the authority of any grants and of sums to be paid to the authority by the participating municipalities. R.S.O. 1950, c. 62, s. 4 (4); 1957, c. 13, s. 1. Borrowing
power

Interpre-
tation

4.—(1) In this section, "Metropolitan Conservation Authority" means The Metropolitan Toronto and Region Conservation Authority. 1956, c. 9, s. 1, *part*.

Metropolitan
Conservation
Authority
continued

(2) The Metropolitan Toronto and Region Conservation Authority is continued. 1956, c. 9, s. 1, *part, amended*.

Participating
municipalities

(3) The Municipality of Metropolitan Toronto, the townships of Adjala, Albion, Caledon, Chinguacousy, King, Markham, Mono, Pickering, Toronto, Toronto Gore, Uxbridge, Vaughan and Whitchurch, the towns of Ajax and Brampton and the villages of Bolton, Markham, Pickering, Richmond Hill, Stouffville and Woodbridge are hereby designated as the participating municipalities in the Metropolitan Conservation Authority for the purposes of this Act. 1956, c. 9, s. 1, *part*.

Jurisdiction
of Metro-
politan
Conservation
Authority

(4) The Metropolitan Conservation Authority has jurisdiction in all matters provided for in this Act over an area composed of all areas formerly under the jurisdictions of the Etobicoke-Mimico Conservation Authority, the Humber Valley Conservation Authority, the Don Valley Conservation Authority, and the Rouge, Duffin, Highland, Petticoat Conservation Authority, together with all other areas lying between the westerly limit of the area formerly under the jurisdiction of the Etobicoke-Mimico Conservation Authority and the easterly limit of the area formerly under the jurisdiction of the Rouge, Duffin, Highland, Petticoat Conservation Authority and which front on Lake Ontario and together with the area within the watershed of Carruthers Creek and the area known as Toronto Island. 1956, c. 9, s. 1, *part*; 1959, c. 18, s. 1, *amended*.

Adjala,
Caledon and
Mono to be
one munici-
pality

(5) For the purposes of appointing members to the Metropolitan Conservation Authority, the townships of Adjala, Caledon and Mono shall be considered as one municipality.

Members

(6) Notwithstanding section 10, the number of members appointed to the Metropolitan Conservation Authority by The Municipality of Metropolitan Toronto shall at all times be equal to the total number of members appointed by the other participating municipalities.

Minister
may appoint
one member

(7) The Minister may appoint one member to the Metropolitan Conservation Authority, but no appointment shall be made to the Metropolitan Conservation Authority under subsection 2 of section 10.

(8) At the first meeting of the Metropolitan Conservation Authority and thereafter at the first meeting held in each calendar year, the Metropolitan Conservation Authority, from among its members, shall appoint four advisory boards

- (a) one for the Etobicoke Creek, the Mimico Creek and the New Toronto Creek watersheds, consisting of not fewer than six members;
- (b) one for the Humber River watershed, consisting of not fewer than eight members;
- (c) one for the Don River watershed, consisting of not fewer than six members; and
- (d) one for the Rouge River, Duffin Creek, Highland Creek and Petticoat Creek watersheds, consisting of not fewer than seven members.

(9) No person shall be a member of an advisory board appointed under subsection 8 unless he is resident in the watershed or watersheds for which such board is appointed. 1956, c. 9, s. 1, *part*.

5. Where the councils of any three municipalities situate either wholly or partly within two or more watersheds by resolution request the Minister to call a meeting for the establishment of a conservation authority for such watersheds or any defined parts thereof, the provisions of sections 2 and 3 apply *mutatis mutandis*. R.S.O. 1950, c. 62, s. 5; 1954, c. 10, s. 3, cl. (c).

6.—(1) Where,

- (a) an authority has been established for one or more watersheds; and
- (b) the councils of any two or more municipalities situate either wholly or partly within a watershed adjoining the watershed or watersheds for which the authority has been established, by resolution request the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such adjoining watershed,

Meeting for
enlargement
of authority

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within the adjoining watershed. R.S.O. 1950, c. 62, s. 6 (1); 1954, c. 10, s. 3, cl. (d).

Representa-
tives from
adjoining
watershed

(2) With respect to each municipality so notified, sub-section 2 of section 2 applies.

Quorum

(3) At any meeting called under this section, a quorum consists of the number of members of the existing authority required to constitute a quorum of the authority and two-thirds of the representatives that the municipalities notified are entitled to appoint, but where not less than two members of the authority and three municipal representatives are present at a meeting or an adjourned meeting they may adjourn the meeting or adjourned meeting from time to time. R.S.O. 1950, c. 62, s. 6 (2, 3).

Enlarge-
ment of
authority

(4) Upon receipt by the Minister of a joint resolution passed at a meeting or adjourned meeting held under sub-section 3 and at which a quorum was present, by not less than two-thirds of the members of the authority and not less than two-thirds of the municipal representatives thereat, requesting the enlargement of the area over which the authority has jurisdiction to include the adjoining watershed, the Lieutenant Governor in Council may enlarge the area accordingly and may designate the additional municipalities that are the participating municipalities and the area over which the enlarged authority has jurisdiction. R.S.O. 1950, c. 62, s. 6 (4); 1954, c. 10, s. 3, cl. (e).

Amalgama-
tion of
authorities

7.—(1) Where,

- (a) two or more authorities have been established for two or more adjoining watersheds or parts thereof; and
- (b) one or more of such authorities by resolution requests the Minister to call a meeting to consider the establishment of one authority to have jurisdiction over the areas then under the separate jurisdictions of such authorities,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of each of the authorities concerned and the council of each municipality that is a participating municipality with respect to any of the authorities concerned.

Representa-
tives

(2) With respect to each municipality so notified, sub-section 2 of section 2 applies.

Quorum

(3) At any meeting called under this section a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not less

than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time.

(4) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under subsection 3 and at which a quorum was present, by not less than two-thirds of the representatives present thereat, requesting the establishment of one authority for the watersheds or parts of watersheds concerned, the Lieutenant Governor in Council may establish an authority accordingly, dissolve the existing authorities, and designate the municipalities that are the participating municipalities and the area over which the new authority has jurisdiction. Establishment of new authority

(5) Upon the establishment of a new authority and the dissolution of the existing authorities under subsection 4, all the assets and liabilities of the dissolved authorities vest in and become assets and liabilities of the new authority. 1954, c. 10, s. 5. Assets and liabilities of former authorities

8. Where,

- (a) an authority has been established and has under its jurisdiction part of a watershed; and Enlargement of authority having jurisdiction in part of a watershed
- (b) the councils of two or more municipalities, situate either wholly or partly within any defined part of the watershed not under the jurisdiction of the authority, by resolution request the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such defined part,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within such defined part, and the provisions of subsections 2, 3 and 4 of section 6 apply *mutatis mutandis*. R.S.O. 1950, c. 62, s. 7; 1954, c. 10, s. 3, cl. (f).

9. Where a new municipality is erected within or partly within the area over which an authority has jurisdiction, the Lieutenant Governor in Council may designate the municipality as a participating municipality. 1952, c. 11, s. 3. New municipalities

10.—(1) Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers prescribed by subsection 2 of section 2 for the Members of authority

appointment of representatives and shall hold office during the pleasure of the respective councils, and each member shall hold office until the first meeting of the authority after his appointment is terminated. R.S.O. 1950, c. 62, s. 8 (1); 1952, c. 11, s. 4.

Where part
only of
township
under
authority

(2) Where part only of a township is situated in an area over which an authority has jurisdiction, the number of members appointed for the township shall be based on the population of that part only of the township and such population shall be deemed to be the same proportion of the total population of the whole township as the number of acres in that part of the township is of the total acreage of the township. 1959, c. 18, s. 2 (1).

Idem

(3) Where the Lieutenant Governor in Council makes a grant to an authority, he may appoint not more than three members of the authority. R.S.O. 1950, c. 62, s. 8 (2); 1960, c. 11, s. 1.

First
meeting

(4) The first meeting of an authority shall be held at such time and place as is determined by the Minister. R.S.O. 1950, c. 62, s. 8 (3); 1954, c. 10, s. 3, cl. (g).

Votes

11.—(1) Each member of an authority is entitled to one vote and in the event of a tie vote, the chairman has a second or deciding vote.

Quorum

(2) At any meeting of an authority a quorum consists of one-third of the number of members that the participating municipalities are entitled to appoint, except where there are fewer than six members, in which case two members constitute a quorum.

Majority
votes

(3) A majority vote of the members present at any meeting is required upon all matters coming before the meeting. R.S.O. 1950, c. 62, s. 9.

Chairman,
vice-
chairman

12.—(1) At the first meeting of an authority and thereafter at the first meeting held in each calendar year, the authority shall elect a chairman and a vice-chairman from among themselves, but, where the Lieutenant Governor in Council makes a grant to an authority, he may appoint the chairman.

Death of
chairman
and vice-
chairman

(2) Subject to subsection 1, upon the death of the chairman or vice-chairman, or upon either of them ceasing to be a member of the authority, the remaining members may elect a chairman or vice-chairman to fill such vacancy.

(3) In the event of the absence of the chairman and vice-chairman from any meeting of an authority, the members present shall elect an acting chairman who, for the purposes of such meeting, has all the powers and shall perform all the duties of the chairman. R.S.O. 1950, c. 62, s. 10.

13.—(1) An authority may appoint a chief officer, secretary-treasurer and such other employees as it deems necessary who shall hold office during the pleasure of the authority and shall receive such salary or other remuneration as the authority determines, payable out of the funds of the authority.

(2) An authority may appoint one or more advisory boards. R.S.O. 1950, c. 62, s. 11.

14.—(1) The authority may elect or appoint an executive committee from among themselves.

(2) The chief officer is *ex officio* a member of the executive committee. R.S.O. 1950, c. 62, s. 12 (1, 2).

(3) Where the Lieutenant Governor in Council makes a grant to an authority, he may appoint not more than three members to the executive committee and may also appoint the chairman, in which case he may appoint only two other members. 1960, c. 11, s. 2.

15. The objects of an authority are to undertake and effect such scheme or schemes in respect of the watershed or part thereof for which it is established as the authority determines. R.S.O. 1950, c. 62, s. 13.

16. Before proceeding with a scheme that is to be financed by funds raised and spent by the authority during the current year, the authority shall file plans and a description thereof with and obtain the approval in writing of the Minister, and, where any portion of the cost of a scheme is to be raised in a subsequent year or years, shall also obtain the approval of the Ontario Municipal Board. 1955, c. 7, s. 1.

17. For the purposes of carrying out a scheme, an authority has power,

- (a) to study and investigate the watershed by itself or by its engineers or other employees or representatives, and to determine a scheme whereby the natural resources of the watershed may be conserved, restored

and developed and the waters controlled in order to prevent floods and pollution or any of such matters;

R.S.O. 1960,
c. 203

- (b) subject to *The Lakes and Rivers Improvement Act*, to erect works and structures and create reservoirs by the construction of dams or otherwise;
- (c) to purchase or acquire and without the consent of the owner enter upon, take and expropriate any land that it may require and sell or otherwise deal with such land or other property;
- (d) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;
- (e) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any scheme;
- (f) to enter into agreements with owners of private lands to facilitate the due carrying out of any scheme or conservation project;
- (g) to determine the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them;
- (h) to use lands that are owned or controlled by the authority for such purposes, not inconsistent with its objects, as it deems proper;
- (i) to acquire lands, with the approval of the Minister, and to use lands acquired in connection with a scheme, for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;
- (j) to collaborate with departments and agencies of government, municipal councils and local boards and other organizations;
- (k) to plant and produce trees on public lands with the consent of the Minister of Lands and Forests, and on private lands with the consent of the owner, for any purpose;
- (l) to cause research to be done;

- (m) generally to do all such acts as are necessary for the due carrying out of any scheme. R.S.O. 1950, c. 62, s. 15; 1954, c. 10, s. 6; 1960, c. 11, s. 3.

18.—(1) A conservation authority and any municipality may enter into agreement for the construction or maintenance of a road or the reconstruction or maintenance of an existing road under the jurisdiction of the municipality for the purpose of providing access to lands of the conservation authority used or to be used for park or recreational purposes.

(2) A road constructed, reconstructed or maintained under an agreement made under subsection 1 remains under the jurisdiction of the municipality. 1960, c. 11, s. 4.

19.—(1) When an authority has determined the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by registered mail. R.S.O. 1950, c. 62, s. 16 (1).

(2) Any municipal council that is dissatisfied with any such apportionment may, within one month after it receives notice of the apportionment, notify the secretary of the Ontario Municipal Board and the authority in writing by registered mail that it applies for a review of the apportionment by the Ontario Municipal Board. 1954, c. 10, s. 7.

(3) Upon such application the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing.

(4) The Ontario Municipal Board has authority to take evidence, to confirm or vary the apportionment of the authority and to fix and award costs, and its decision is final and conclusive and is not open to appeal.

(5) In the event of the authority varying any apportionment made by it, the provisions of this section apply *mutatis mutandis*. R.S.O. 1950, c. 62, s. 16 (3-5).

20.—(1) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

- (a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, swamps

and natural or artificially-constructed depressions in rivers or streams;

- (b) regulating the location of ponds used as a source of water for irrigation;
- (c) providing for the appointment of officers to enforce any regulation made under this section;
- (d) prohibiting or regulating the placing or dumping of fill of any kind in any area below the high water mark of any river, creek or stream. 1956, c. 9, s. 1, *part*; 1959, c. 18, s. 3.

Exceptions

(2) No regulation made under this section,

- (a) shall limit the use of water for domestic or live stock purposes;
- (b) shall interfere with any rights or powers conferred upon a municipality;
- (c) shall interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any board or commission that is performing its functions for or on behalf of the Government of Ontario;

R.S.O. 1960,
c. 203

- (d) shall interfere with any rights or powers under *The Lakes and Rivers Improvement Act*; or

R.S.O. 1960,
c. 335

- (e) shall interfere with any rights or powers under *The Public Utilities Act*.

Offence

(3) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to a term of imprisonment of not more than three months. 1956, c. 9, s. 1, *part*.

Regulations

21. Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations,

- (a) providing for the calling of meetings of the authority and prescribing the procedure at such meetings;
- (b) prescribing the powers and duties of the chief officer and secretary-treasurer;

- (c) delegating all or any of its powers to the executive committee except,
 - (i) the termination of the services of the chief officer and secretary-treasurer,
 - (ii) the power to raise money, and
 - (iii) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the erection of works approved by the authority. R.S.O. 1950, c. 62, s. 18.

22.—(1) An authority may, itself or by its chief officer, ^{Power to enter on lands, etc.} employees or agents for any purpose necessary to any scheme under consideration or undertaken by the authority, enter into and upon any land to whomsoever belonging and survey and take levels of it and make such borings or sink such trial pits as the authority deems necessary, and, subject to the approval of the Minister, for the purposes of any scheme may,

- (a) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street, or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority; and
- (b) divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole. R.S.O. 1950, c. 62, s. 19 (1); 1954, c. 10, s. 3, cl. (h).

(2) The cost of any work undertaken by an authority under this section shall be borne by the authority and compensation ^{Cost of work} for any damage occasioned thereby may be claimed in accordance with section 28. R.S.O. 1950, c. 62, s. 19 (2).

23. If the chairman of an authority is of opinion that it can obtain the whole of any lot or parcel of land of which ^{Expropriation of land} any part may be expropriated by it at a more reasonable price or to greater advantage than by acquiring such part only, it may expropriate the whole of such lot or parcel and may afterwards sell and convey any part thereof as it deems expedient. R.S.O. 1950, c. 62, s. 20.

Plan to be deposited in registry or land titles office

24.—(1) Where an authority desires to expropriate land, it shall cause a plan and description of the land, prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman and by the chief officer, to be deposited in the proper registry or land titles office, and the land is thereupon vested in the authority.

Where land required for limited time

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and, by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, becomes and is vested in the authority.

Correcting plan or description

(3) In case of an omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect.

Deposit of plan

(4) In all cases, when any such plan and description, purporting to be signed by the chairman or vice-chairman and the chief officer, are so deposited, they shall be deemed to have been deposited by the direction of the authority and as indicating that the land is required for the carrying out of a scheme, and the plan and description shall not be called in question except by the authority. R.S.O. 1950, c. 62, s. 21.

Notice where land expropriated

25.—(1) Where land is expropriated, the authority shall within one month of the deposit of the plan and description in the registry or land titles office send a notice by registered mail to every owner of land included in the plan and description and cause a similar notice to be published once a week for at least three weeks in a newspaper having a general circulation in the locality where the land is located.

Notice, what to state

(2) Such notice shall state,

(a) that the land has been expropriated by the authority;

(b) the purpose for which the land is to be used;

(c) that the owner of any of the land is required to file a statement of any claim for compensation in respect of the expropriation of the land in the office of the authority not later than one month after the mailing or third publication of the notice, whichever is the later date. R.S.O. 1950, c. 62, s. 22 (1, 2).

(3) Upon the expiration of the time indicated in the notice, an advisory board shall consider and determine the amount of compensation that in its opinion should be paid. Compensation

(4) The advisory board shall make such inquiries and inspection and secure such advice as it thinks desirable and shall file with the authority a statement of the amount of compensation it considers should be paid, together with written reasons for its finding, and the statement and reasons shall be signed by each member of the advisory board. Filing of statement

(5) Within one month of the filing of the statement and reasons, the authority shall cause a copy thereof to be sent by registered mail to the person claiming compensation. Notice to claimant

(6) If within one month of the mailing of the copy under subsection 5 the claimant does not serve the authority and the Ontario Municipal Board with a notice of dissatisfaction in accordance with subsection 7, the authority may pay to the claimant the amount recommended by the advisory board, and thereafter no further claim shall be made against the authority in respect of the expropriation of the land. Where no request for determination by Municipal Board

(7) Any person who is dissatisfied with the amount of compensation recommended by the advisory board may, within one month of the mailing of the copy of the statement and reasons, notify the authority and the secretary of the Ontario Municipal Board in writing by registered mail that he is dissatisfied and desires that the compensation payable be determined by the Ontario Municipal Board. Notice of dissatisfaction

(8) Upon receipt of a notice of dissatisfaction, the authority shall forward to the secretary of the Ontario Municipal Board a true copy of the statement and written reasons of the advisory board and a copy of the plan and description certified by the chief officer. Notification to Municipal Board

(9) Upon receipt of a notice of dissatisfaction under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for the determination of the compensation and shall send notice thereof by registered mail to the authority and to the claimant at least fourteen days before the hearing. Notice of hearing

(10) The Ontario Municipal Board has authority to determine the amount of compensation payable and its decision is final and is not open to appeal, except that an appeal lies to the Court of Appeal upon a question of jurisdiction or upon a Power of Municipal Board

question of law in the manner and under the conditions set out in section 95 of *The Ontario Municipal Board Act*, and that section applies *mutatis mutandis*. 1952, c. 11, s. 7.

R.S.O. 1960,
c. 1274

Character
of compen-
sation

26. The compensation agreed upon or determined by the advisory board or the Ontario Municipal Board for any land or property acquired by expropriation or otherwise under this Act stands in the stead of the land or property, and any claim to or encumbrance thereon, with respect to the authority, is converted into a claim to or upon the compensation and no longer affects the land or property so acquired. R.S.O. 1950, c. 62, s. 23.

Right of
authority
to abandon
land taken

27.—(1) Where, at any time before the compensation has been actually ascertained or determined, land expropriated, or any part thereof, is found not to be required, or if it is found that a more limited estate or interest therein only is required, the authority may register in the proper registry office a notice to the effect that the land or such part thereof is not required and is abandoned by the authority, or that it is intended to retain only such limited estate or interest as is mentioned in the notice, and thereupon,

(a) the land declared to be abandoned reverts in the person from whom it was expropriated or in those entitled to claim under him; or

(b) in the event of a limited estate or interest therein being retained by the authority, the land so reverts subject to the estate or interest so retained.

Effect upon
compen-
sation

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment and the damage, if any, sustained in consequence of that which is abandoned having been taken and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation.

Damages
where
abandon-
ment
complete

(3) Where the whole of the land taken is abandoned, the person from whom it was taken is entitled to compensation for the damage sustained and costs incurred by him in consequence of the taking and abandonment, and the amount of such compensation shall be determined in the same manner, *mutatis mutandis*, as is provided by section 25, but, if the amount of compensation for the expropriation of the land is being determined by the advisory board or the Ontario Municipal Board at the time of the abandonment, the advisory board or the Ontario Municipal Board, as the case may be,

shall proceed forthwith to determine the compensation payable in consequence of the taking and abandonment. R.S.O. 1950, c. 62, s. 24.

28.—(1) Where the carrying out or completion of any scheme injuriously affects any land, the owner of the land may apply in writing to the authority in question for compensation and the application shall contain a statement of the nature of the plaintiff's claim and the amount of compensation claimed. ^{Damage to lands}

(2) Upon receipt of an application for compensation under subsection 1, the authority shall direct an advisory board of engineers to investigate the claim and the board shall make such inquiries and inspection and secure such advice as it thinks desirable, and, upon the completion of its investigation, the advisory board shall report to the authority in writing, signed by each member of the board, whether in its opinion the land of the applicant has been injuriously affected by reason of the carrying out or completion of the scheme, and, if damage has been so occasioned, what amount of money the board deems to be reasonable compensation therefor, and the authority shall cause a true copy of the report to be sent to the applicant by registered mail. ^{Report of advisory board}

(3) In determining what amount of money is fair compensation for damage occasioned, the advisory board and the Ontario Municipal Board shall include in such amount reasonable compensation for such damage as may reasonably be expected to be suffered by the land by reason of the carrying out or completion of the scheme. ^{Amount of compensation}

(4) If within one month of the mailing of the copy of the report under subsection 2 the applicant does not serve the authority and the Ontario Municipal Board with a notice of dissatisfaction in accordance with subsection 5, the authority may pay to the applicant the amount deemed by the advisory board to be reasonable compensation, and thereafter no further claim shall be made against the authority in respect of the land. ^{Where no request for determination by Municipal Board}

(5) Any applicant who is dissatisfied with the report of the advisory board may, within one month of the mailing of the copy of the report, notify the authority and the secretary of the Ontario Municipal Board in writing by registered mail that he is dissatisfied with the report and desires that the question as to whether the land has been injuriously affected, and, if so, the compensation payable therefor, be determined by the Ontario Municipal Board. ^{Notice of dissatisfaction}

Copy to be
sent to
Municipal
Board

(6) Upon receipt of a notice of dissatisfaction, the authority shall forward to the secretary of the Ontario Municipal Board a copy of the report of the advisory board.

Notice of
hearing

(7) Upon receipt of a notice of dissatisfaction under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for the determination of the matters and shall send notice thereof by registered mail to the authority and the applicant at least fourteen days before the hearing.

Power of
Municipal
Board

(8) The Ontario Municipal Board has authority to determine whether the land has been injuriously affected and, if so, to determine the amount of compensation payable therefor, and its decision is final and is not open to appeal, except that an appeal lies to the Court of Appeal upon a question of jurisdiction or upon a question of law in the manner and under the conditions set out in section 95 of *The Ontario Municipal Board Act*, and that section applies *mutatis mutandis*. 1952, c. 11, s. 8.

R.S.O. 1960,
c. 274

Contracts by
tenants in
tail, exe-
cutors and
others

29.—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives or other persons, seized, possessed or interested in any land or other property, may contract and agree with an authority for the sale of the whole or any part thereof, and may convey the same to the authority, and may also contract and agree with the authority as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under this Act.

Representa-
tion of
persons
under
disability

(2) Where there is no guardian or other person to represent a person under disability, the judge of the county court of the county in which the land or other property is situate may, after due notice to the persons interested, appoint a guardian or person to represent the person under disability for any of the purposes mentioned in subsection 1. R.S.O. 1950, c. 62, s. 26.

Payment of
compen-
sation up
to \$100

30. If the compensation agreed upon, or found payable, does not exceed \$100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as

to the compensation, saving always the rights of any other person to such compensation as against the person receiving it. R.S.O. 1950, c. 62, s. 27.

31.—(1) In the cases provided for in section 29, the authority shall, and in all other cases, if for any reason the authority deems it advisable, may, pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at the rate of 5 per cent per annum for six months.

Payment of
compensation
into
court

(2) A notice in such form and for such time as a judge of the High Court may direct shall be published in such newspaper as the judge orders, stating that the land is purchased, acquired or taken by the authority under this Act, and calling upon all persons claiming compensation in respect of the purchase, acquisition or taking of the land or any part thereof to file their claims, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of the compensation and for securing the rights of all parties interested as to right and justice and to law appertains.

Proceedings
after pay-
ment into
court

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into court, the judge may direct a proportionate part of the interest to be returned to the authority, and, if it is not obtained until after six months have expired, the judge may order the authority to pay interest for such further period as is deemed just.

Adjustment

(4) Where unborn issue or an unascertained person or class of persons are interested in the compensation, the judge may appoint such person as is deemed proper to represent or act for them, and any order made is binding on them. R.S.O. 1950, c. 62, s. 28.

Representa-
tion of
parties

32. Every person who has had any estate or interest in any land expropriated or who represents any such person shall, upon demand made therefor by or on behalf of the authority that expropriated the land, furnish a true statement showing the particulars of such estate or interest and of every charge, lien or encumbrance to which it is subject and of the claim made by such person in respect of such estate or interest. R.S.O. 1950, c. 62, s. 29.

Power to
require
particulars

33.—(1) If any resistance or opposition is made by any person to an authority or to any person acting for it when entering upon and taking possession of land or exercising any power in respect thereof, the judge of the county court of the county in which the land is situated may, on proof of

Warrant for
possession

the execution of a conveyance to the authority or agreement therefor, or of the depositing of a plan and description in the proper registry or land titles office as provided by section 24 and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county directing him to put down such resistance or opposition and to put the authority, or some person acting for it, in possession thereof, or take such steps as may be necessary to enable it to exercise such power.

Duty and
powers of
sheriff

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the authority, or some person acting for it, in possession, and shall forthwith make return to the judge of such warrant and of the manner in which he executed it. R.S.O. 1950, c. 62, s. 30.

Affecting
Crown land

34.—(1) Where any land required for the carrying out of a scheme or part thereof is Crown land, a plan and description of the land prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman and the chief officer shall be deposited with the Minister of Lands and Forests, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Lands and Forests.

Interference
with public
work

(2) Where a scheme or a part thereof may interfere with a public work of Ontario or of The Hydro-Electric Power Commission of Ontario, the authority shall file with the Minister of Public Works or with the Commission, as the case may be, a plan and description of the scheme or part thereof together with a statement of the interference with the public work that may occur and a statement of the manner in which the authority proposes to remedy the interference, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Public Works or of the Commission, as the case may be.

Interference
with
highway

(3) Where a scheme or a part thereof will interfere with a public road or highway, the authority shall file with the Minister of Highways a plan and description of the scheme or part thereof together with a statement of the interference with the public road or highway that will occur and a statement of the manner in which the authority proposes to remedy the interference, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Highways.

(4) The cost of rebuilding any road, highway, bridge, public work or work of The Hydro-Electric Power Commission of Ontario or any part thereof and the cost of any other work that any of the Ministers of the Crown or the Commission may require to be done under this section shall be borne by the authority, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario or the Commission, as the case may be. R.S.O. 1950, c. 62, s. 31.

35.—(1) Land that is acquired by an authority by expropriation or otherwise may be assessed for municipal purposes at an amount not in excess of its assessed value immediately prior to the acquisition. Assessment of lands of authority

(2) Works erected by an authority for the purposes of a scheme are exempt from municipal taxation. R.S.O. 1950, c. 62, s. 32. Works exempt from taxation

36.—(1) Where the carrying out of a scheme will require the use of a cemetery or other place of interment of human remains, the authority shall acquire other suitable lands for the interment of the bodies contained in the cemetery or other place of interment. Cemetery lands

(2) The authority shall forward a notice to the owner of each lot in the cemetery or other place of interment, but, if the owner or his whereabouts is unknown, the notice shall, wherever possible, be forwarded to some other person having an interest in the plot through relationship or otherwise to a deceased person buried therein. Notice to plot owners

(3) The authority shall also cause a notice to be published once a week for at least three weeks in a newspaper having general circulation in the locality where the cemetery or other place of interment is located, which notice shall state, Publication of notice

- (a) that the cemetery or other place of interment has been acquired for the purposes of the authority;
- (b) that other land, describing it, has been acquired by the authority for the purpose of re-interring the bodies;
- (c) that the authority will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for re-interment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and

(d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the authority, may cause any body interred in the cemetery or other place of interment to be removed to any other place of interment at his own expense if he obtains permission from the authority and effects the removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the authority determines.

Authority
to remove
bodies

(4) The authority has full power to cause the removal of any body from any such cemetery or place of interment to any lands acquired under subsection 1 notwithstanding any other Act and to authorize the removal by any other person of any such body for reinterment in any other cemetery or place of interment.

Removal of
headstones

(5) Where a body is removed and re-interred, any headstone or other stone shall be removed and re-erected at the place of re-interment.

Conveyance
of lands for
re-interment

(6) The authority shall render land, including fences and buildings, acquired for the re-interment of bodies, in a fit and proper condition and shall convey the land to the owner of the cemetery or other place of interment from which the bodies were removed. R.S.O. 1950, c. 62, s. 33.

Use of
water power

37.—(1) Subject to the right of an authority to use any water power created upon lands vested in it for its own uses, which does not include the marketing or sale of power, The Hydro-Electric Power Commission of Ontario has the sole right to use such water power, but The Hydro-Electric Power Commission of Ontario may consent to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the authority.

Compensation
for water power

(2) The Hydro-Electric Power Commission of Ontario shall pay to the authority an annual, reasonable compensation for the use of any such water power used by the Commission.

Determination
of compensation

(3) Where the authority and The Hydro-Electric Power Commission of Ontario are unable to agree upon the amount of compensation payable, the amount shall be determined by a committee of three members comprising the chief officer of the authority, the chief engineer of the Commission and an engineer to be agreed upon by both of them, or, in the event that they are unable to agree, appointed by the Lieutenant Governor in Council, and the engineer so agreed upon or

appointed shall act as chairman of the committee, and there is no appeal from the committee, but, after ten annual payments of compensation, the amount of compensation shall be redetermined by a like committee at the request of either the authority or the Commission.

(4) Subject to review by The Hydro-Electric Power Commission of Ontario, an authority shall charge persons who at the time of the establishment of the authority are, or thereafter become, users of power derived by them from the use of the waters of the watershed for any additional power, generated from increased head or flow due to the works undertaken by the authority.

(5) This section does not apply to water power reserved to the Crown under *The Public Lands Act*. R.S.O. 1950, c. 62, s. 34.

Charge for additional power

When section not to apply
R.S.O. 1960, c. 324

38.—(1) An authority may from time to time determine what moneys will be required for capital expenditure in connection with any scheme.

Determination of capital expenditure

(2) The portion of the moneys so required that each participating municipality shall raise shall be in the same proportion as the benefit derived by each such municipality bears to the total benefit derived by all participating municipalities.

Portion to be raised by participating municipalities

(3) Upon notice in writing of the amount required to be raised, signed by the chairman and secretary-treasurer of the authority, each participating municipality shall raise by the issue of debentures or otherwise such moneys as may be required by the authority for capital expenditure, subject only to such conditions as the Ontario Municipal Board may impose as to the time and manner of the raising of such moneys. R.S.O. 1950, c. 62, s. 35 (1-3).

How money to be raised

(4) Subject to subsection 3, an authority may enforce payment against any participating municipality of the portion of the capital cost required to be raised by the municipality as a debt due by the municipality to the authority. 1952, c. 11, s. 9.

Enforcement of payment

(5) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the portion of the moneys required to be raised by that municipality for capital expenditure shall be charged against the rateable property in that part of the municipality.

Where only part of municipality in area

Limited
benefit

(6) Where the council of a participating municipality is of opinion that the major part of the benefit to be derived from a specific work accrues to a limited area of the municipality, the council, with the approval of the chief officer, may by by-law provide that a specified portion of the moneys required to be raised by that municipality for capital expenditure in connection with that work shall be defrayed by a special rate upon the rateable property in that area, which area shall be defined in the by-law, and that the balance of such moneys shall be defrayed by a special rate upon the rateable property in the remaining portion of the municipality within the area over which the authority has jurisdiction. R.S.O. 1950, c. 62, s. 35 (4, 5).

Assessment
for adminis-
tration
costs and
maintenance

39.—(1) For the purposes of paying administration costs and the costs of maintenance of the works included in any scheme, a sum may be levied annually by an authority against each of the participating municipalities.

Apportion-
ment of
cost

(2) After determining the approximate total cost of administration costs and maintenance for the succeeding calendar year, the authority shall apportion such cost to the participating municipalities according to the benefit derived or to be derived by each such municipality, and the amount apportioned to each municipality shall be levied against each such municipality, and the secretary-treasurer of the authority shall forthwith certify to the clerk of each participating municipality the total amount that has been so levied, and the clerk of the municipality shall calculate and insert the same in the collector's roll for the current year, and such amount shall be collected in the same manner as municipal taxes for general purposes and paid over to the authority. 1952, c. 11, s. 10.

Where only
part of
municipality
in area

(3) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the amount apportioned to that municipality shall be calculated and inserted in the collectors' roll for the current year against the rateable property in that part of the municipality and shall be collected and paid in the manner provided in subsection 2.

Enforce-
ment of
payment

(4) An authority may enforce payment against any participating municipality of any portion of the cost of maintenance apportioned and assessed to such municipality as a debt due by such municipality to the authority. R.S.O. 1950, c. 62, s. 36 (3, 4).

40. Where by this Act any power is conferred or duty imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the assent of the electors. R.S.O. 1950, c. 62, s. 37.

41. All moneys required by this Act to be raised for the purposes of an authority shall be paid to the authority and the authority may spend such moneys as it deems proper, except that no salary, expenses or allowances of any kind shall be paid to any of the members of the authority without the approval of the Ontario Municipal Board. R.S.O. 1950, c. 62, s. 38.

42. The Lieutenant Governor in Council may make a grant to any authority out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 62, s. 39.

CHAPTER 63

The Consolidated Cheese Factories Act

1. In this Act, "Minister" means the Minister of Agriculture. Interpretation R.S.O. 1950, c. 63, s. 1.

2. Loans may be granted by the Minister, with the approval of the Lieutenant Governor in Council, out of moneys appropriated for the purpose by the Legislature towards the erection of consolidated cheese factories under and subject to the provisions and conditions set forth in this Act. Loans for building purposes R.S.O. 1950, c. 63, s. 2.

3.—(1) Every such loan shall be secured by a first mortgage on the lands, buildings and equipment in respect of which the loan is made. Security

(2) Every such loan shall bear interest at the rate of 5 per cent per annum. Interest

(3) No loan shall be made of an amount in excess of 80 per cent of the value of the lands and buildings in respect of which the loan is made. Limit R.S.O. 1950, c. 63, s. 3.

4.—(1) The application for a loan may be made by milk producers in any part of Ontario who desire to erect a modern dairy plant to take the place of two or more smaller ones and who have agreed to supply annually three million pounds of milk to the dairy. Application

(2) The applicants shall form a co-operative company and shall subscribe for stock to an amount sufficient, in the opinion of the Minister, to finance the enterprise. Applicants to form co-operative company

(3) Twenty per cent of the par value of the stock shall be paid at the time of subscription and the balance deducted from the value of the milk delivered at the factory at a rate of not less than 3 per cent and not more than 5 per cent until the stock is fully paid up. Terms

(4) All moneys received on account of stock in the company shall be deposited in the trust fund and shall at the end of each three-month period be paid over to the Minister to be applied for the repayment of the moneys advanced. Moneys, when to be paid over to Minister

Limit of
five shares
to each
person

(5) A shareholder in the company shall not hold more than five shares nor have more than one vote, and all shares in the company shall be transferable subject to the approval of the directors. R.S.O. 1950, c. 63, s. 4.

Site, plan
and equip-
ment

5.—(1) The site, plan and equipment of every factory in respect of which a loan is made under this Act shall be subject to the approval of the Minister.

Management

(2) The company shall have the management of the factory, but the Minister has the right to name one director until such time as the loan is fully paid. R.S.O. 1950, c. 63, s. 5 (1).

Board of
appraisal

6. A loan shall not be made under this Act until a board of appraisal, consisting of a chief dairy instructor, the president of a dairymen's association and some other disinterested person agreed upon by them, or, in default of agreement, named by the Minister, has reported,

- (a) as to the value of the land, building, and equipment of the factory in respect of which the loan is to be made; and
- (b) that in their opinion all reasonable efforts have been made to effect a satisfactory adjustment with any factory that will be displaced by the factory in respect of which the loan is made. R.S.O. 1950, c. 63, s. 5 (2).

Regulations

7. The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 63, s. 6.

CHAPTER 64

The Constitutional Questions Act

1. The Lieutenant Governor in Council may refer to the Court of Appeal or to a judge of the Supreme Court for hearing and consideration any matter that he thinks fit, and the court or judge shall thereupon hear and consider the matter so referred. R.S.O. 1950, c. 65, s. 1.

2. The court or judge shall certify to the Lieutenant Governor in Council its or his opinion on the matter referred, accompanied by a statement of the reasons therefor, and, in the case of a reference to the Court of Appeal, any judge who differs from the opinion may in like manner certify his opinion and his reasons. R.S.O. 1950, c. 65, s. 2.

3. Where the matter relates to the constitutional validity of an Act of the Legislature or a provision thereof, the Attorney General for Canada shall be notified of the hearing in order that he may be heard if he sees fit. R.S.O. 1950, c. 65, s. 3.

4. The court or judge may direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of the class, be notified of the hearing, and such persons are entitled to be heard. R.S.O. 1950, c. 65, s. 4.

5. Where an interest affected is not represented by counsel, the court or judge may request counsel to argue the case in such interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario out of any money appropriated by the Legislature and applicable for that purpose. R.S.O. 1950, c. 65, s. 5.

6. The opinion of a judge under this Act shall be deemed a judgment of the court, and an appeal lies therefrom to the Court of Appeal as from a judgment in an action, in which case sections 2 to 5 apply as if the original reference had been to the Court of Appeal. R.S.O. 1950, c. 65, ss. 6, 7.

CHAPTER 65

The Controverted Elections Act**1.** In this Act,Interpre-
tation

(a) “candidate at an election” or “candidate” means a person elected to serve in the Assembly, or a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the day of the issue of the writ for an election or after the dissolution or vacancy in consequence of which the writ has been issued;

(b) “corrupt practice” has the meaning assigned to it by *The Election Act*;

R.S.O. 1960,
c. 118

(c) “county” includes united counties and a district;

(d) “county court” includes a district court;

(e) “court” means the Court of Appeal;

(f) “election” means an election of a member to serve in the Assembly;

(g) “election court” means a court constituted under this Act for the trial of a petition, or a summary trial court constituted under this Act for the trial of persons charged with corrupt practices or illegal acts;

(h) “election list” means the list of petitions referred to in section 32;

(i) “member” means a member of the Assembly;

(j) “petition” means a petition presented under this Act;

(k) “prescribed” means prescribed by this Act or by the rules of court;

(l) “public moneys” includes the moneys of Ontario or of a municipality;

(*m*) “registrar” means the registrar of the Court of Appeal;

(*n*) “rules of court” means the rules made as provided in this Act;

(*o*) “Speaker” means Speaker of the Assembly, or, when the office is vacant, the Clerk of the Assembly or any other officer for the time being performing the duties of the Clerk. R.S.O. 1950, c. 67, s. 1.

Jurisdiction **2.** The Supreme Court has, subject to this Act, the same powers, jurisdiction and authority with reference to a petition and the proceedings thereon as it would have if the petition were an ordinary action within the jurisdiction of that court. R.S.O. 1950, c. 67, s. 2.

**Practice
and
procedure**

3.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to a petition and to the proceedings thereon with respect to,

(*a*) service of the petition and of all other documents;

(*b*) payment into and out of court;

(*c*) examination for discovery;

(*d*) production and inspection of documents;

(*e*) costs and the taxation and recovery thereof;

(*f*) all other matters of practice or procedure.

Saving

(2) Nothing in this section extends or confers the right to extend the time for the presentation of a petition. R.S.O. 1950, c. 67, s. 3.

**Power to
make rules
of court**

4. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make general rules not inconsistent with this Act for the effectual execution thereof, and the regulation of the practice and procedure and as to costs. R.S.O. 1950, c. 67, s. 4.

**Present
rules and
practice in
cases not
provided
for**

5. The rules of court now in force shall remain in force until revoked or altered by rules of court made in pursuance of this Act, and, so far as the rules of court from time to time in force do not extend, the principles, practice and rules on which election petitions touching the election of members

to the House of Commons of the United Kingdom were on the 15th day of February, 1871, dealt with, where not inconsistent with this Act, shall be observed. R.S.O. 1950, c. 67, s. 5.

6. A petition may be presented to the court complaining of an undue return or undue election of a member, or of no return, or of matters contained in a special return, or of a corrupt practice by a candidate not returned by which he is alleged to have become disqualified to sit in the Assembly. R.S.O. 1950, c. 67, s. 6.

7. A petition may be presented by,

Subject
matter of
petition
By whom
petition may
be presented

(a) a person who was a candidate at the election; or

(b) three persons who voted or who had a right to vote at the election and who are severally rated on the last revised assessment roll in respect of real property in the electoral district for at least \$1,000. R.S.O. 1950, c. 67, s. 7.

8. Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but the petition shall be deemed to be a separate petition against each respondent. R.S.O. 1950, c. 67, s. 8.

9. Where a petition complains of the conduct of a returning officer, he shall, for all the purposes of this Act except the admission of a respondent in his place, be deemed to be a respondent. R.S.O. 1950, c. 67, s. 9.

10. Where a petition complains of no return, the court may make such order thereon as it thinks expedient for compelling a return to be made, or may allow the petition to be tried by an election court in the manner provided in this Act with respect to other petitions. R.S.O. 1950, c. 67, s. 10.

11. The petition shall be presented within forty-five days after the day on which the polling was held for the election named in the petition, unless it questions the return or election upon an allegation of corrupt practices and specifically alleges a payment of money or other act by the member or on his account, or with his privity, since the time of the return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within the said period of forty-five days or within twenty-eight days after the date of such payment or act. R.S.O. 1950, c. 67, s. 11.

Form of
petition,
and by
whom to be
signed

12. A petition shall be in such form and state such matters as are prescribed, and shall be signed by the petitioner, or all the petitioners, if there are more than one. R.S.O. 1950, c. 67, s. 12.

Cross
petition on
account of
corrupt
acts

13. If a petition is presented against the return of a member, the respondent or any other person authorized by law to present a petition, may, within fifteen days after the service of the petition against the return, present a petition complaining of a corrupt practice by a candidate at the same election who was not returned, whether the seat is or is not claimed by him, or on his behalf, and the trial of such petition shall take place at the same time as the trial of the petition against such member or respondent, or at such other time as is appointed. R.S.O. 1950, c. 67, s. 13.

Presentation
of petition

14.—(1) Presentation of a petition in a case arising in the County of York or The Municipality of Metropolitan Toronto shall be made by delivering it to the registrar, and in other cases by delivering it to the local registrar of the Supreme Court for the county or district in which the electoral district or any part thereof is situate, or otherwise dealing with it in the manner prescribed. R.S.O. 1950, c. 67, s. 14 (1), *amended*.

Notice to
registrar

(2) On receipt of a petition by a local registrar, he shall send notice thereof by registered mail to the registrar. R.S.O. 1950, c. 67, s. 14 (2).

Notice to
Chief
Election
Officer

(3) The registrar shall send a notice by registered mail to the Chief Election Officer of the presentation of every petition. R.S.O. 1950, c. 67, s. 14 (3); 1954, c. 11, s. 1.

Verification

15.—(1) With every petition shall be filed an affidavit by each of the petitioners, referring or annexed to the petition, stating that the deponent presents the petition in good faith and with actual knowledge of the allegations therein contained and has reason to believe and does believe the statements contained therein to be true in substance and in fact, and all particulars afterwards furnished by either party shall be verified by the affidavit of the person furnishing such particulars.

Cross-
examination

(2) The respondent may cross-examine any petitioner upon any such affidavit made by such petitioner and may move for the dismissal of the petition, and, if the court is satisfied that the petitioner is not acting in good faith or has not reason to believe or does not believe any statements contained in such affidavit, or the petition or particulars verified by such affidavit, the petition shall be dismissed and

all proceedings thereunder terminated on such terms as the court directs. R.S.O. 1950, c. 67, s. 15, *amended*.

16.—(1) On the presentation of a petition against the return of a member, the officer with whom it is filed shall send a copy thereof by mail to the returning officer of the electoral district to which the petition relates, who shall forthwith publish a notice thereof once in a newspaper published in the locality, or, if there is no newspaper published in the locality, then in a newspaper having general circulation in the locality. R.S.O. 1950, c. 67, s. 16 (1), *amended*.

Publication
of notice of
petition

(2) The notice may be in the form following:

Form of
notice

Notice is hereby given that.....has
presented a petition to the Supreme Court of Ontario under
The Controverted Elections Act against the return of.....
..... as a member of the Legislative
Assembly for the Electoral District of.....
[and (*where the seat is claimed*) claiming the seat for.....
..... or as the case may be].

Dated at.....the.....day of....., 19..

Returning Officer

R.S.O. 1950, c. 67, s. 16 (2).

17.—(1) A disclaimer by the member-elect under *The Legislative Assembly Act* does not affect the right of any person entitled to contest the election to present a petition claiming the seat for himself or for some other person, or the liability of the person disclaiming in respect of corrupt practices against whom a petition may be presented in the same manner as if he had not disclaimed.

Disclaimer
R.S.O. 1960,
c. 208

(2) In the case of a petition claiming the seat for the petitioner or some other person, the election court shall determine whether any candidate, other than the member who has disclaimed, was duly elected, and the candidate declared by the election court to be duly elected is entitled to the seat. R.S.O. 1950, c. 67, s. 17.

When seat
claimed

18. The officer receiving a copy of the disclaimer under subsection 2 of section 17 of *The Legislative Assembly Act* shall give notice of such disclaimer to any person who has filed or who may thereafter present to be filed a petition against the member disclaiming. R.S.O. 1950, c. 67, s. 18.

Notice of
disclaimer

19. Notwithstanding such disclaimer, a judge of the court, upon the application of any voter in the electoral district within ten days after the registrar has received notice of the disclaimer, upon its being made to appear that corrup-

Permitting
petition to
be filed
where
corruption
charged

tion has extensively prevailed at the election, may permit a petition to be filed in the same manner as though no such disclaimer had been made, or may, upon the grounds aforesaid, permit proceedings upon any petition that has been filed to proceed upon such terms as he thinks fit. R.S.O. 1950, c. 67, s. 19.

Security for
costs

20. At the time of the presentation of a petition, or within four days afterwards, security shall be given on behalf of the petitioner for the payment,

- (a) to the returning officer and the sheriff of the costs and charges incurred in the publication of notices in the electoral district in respect of the petition or proceedings thereon, which shall form a first charge upon the security; and
- (b) of all costs, charges and expenses that may become payable by the petitioner to,
 - (i) every person summoned as a witness on his behalf,
 - (ii) the member or candidate against whom the petition is presented, and
 - (iii) the returning officer, if his conduct is complained of. R.S.O. 1950, c. 67, s. 20.

How made

21. The security shall be a deposit of \$1,000 in one of the banks in which public money of Ontario is then being deposited, and the deposit shall be made to the credit of the petition with the privity of the Accountant of the Supreme Court. R.S.O. 1950, c. 67, s. 21.

Service of
petition

22.—(1) A copy of the petition, together with notice of the presentation thereof, shall be served upon the respondent within ten days after the day on which security is given or within such further period as a judge of the court, under special circumstances of difficulty in effecting service and on application made not later than three days after the expiration of such ten days, may allow. R.S.O. 1950, c. 67, s. 22 (1), *amended*.

Manner

(2) The service shall be made as nearly as may be in the manner in which a writ of summons is served or in such other manner as is prescribed. R.S.O. 1950, c. 67, s. 22 (2).

Outside
Ontario

(3) By leave of a judge of the court, the service may be made outside Ontario. R.S.O. 1950, c. 67, s. 22 (3), *amended*.

23. Every party to a petition may, at any time after the petition is at issue, be examined in the manner hereinafter directed by a party adverse in interest, touching any matter raised by the petition, and a party so examined may be further examined on his own behalf in relation to any matter respecting which he has been examined in chief; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf or on behalf of those united with him in interest to the same extent as the party examined, but the explanatory examination shall be proceeded with immediately after the examination in chief and not at any later period, except by leave of a judge of the court. R.S.O. 1950, c. 67, s. 23, *amended*.

When and how parties to petition may be examined

24. Where a petition has been filed against a member-elect who is entitled to take his seat, he shall not without his consent be required to attend on a preliminary examination during a session of the Assembly. R.S.O. 1950, c. 67, s. 24.

Member not required to attend on preliminary examination during session

25. Where a party to a petition deems that a preliminary examination is being carried on for an unreasonable length of time, he may apply to a judge of the court, on giving two clear days notice to the opposite party, for an order that no further examination shall be had or that the examination shall be closed by a day to be named, and the judge may make an order accordingly or may make such other order as appears just and reasonable. R.S.O. 1950, c. 67, s. 25.

Stay of examination ordered

26. A candidate for whom the seat is claimed, although not a party to the petition, may be orally examined as if he were a petitioner, and, for the purpose of production of documents, shall be deemed to be a petitioner. R.S.O. 1950, c. 67, s. 26.

Examination of candidate claiming seat

27.—(1) A party to be examined orally shall be examined before a judge of the county court, the registrar or a local master or special examiner of the Supreme Court, or by consent of the parties, before a barrister-at-law specially named in the order for examination.

How examination of parties to be had

(2) The costs of and incidental to every preliminary examination shall be borne by the party procuring the examination, and shall not in any event be chargeable against the other party or against the deposit in court. R.S.O. 1950, c. 67, s. 27.

Costs of preliminary examinations

28. When the examination is concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the office where the petition is

Depositions to be filed

filed, and any party to the petition is entitled to a copy of the depositions, or any part thereof, upon payment for the same at such rate as is prescribed. R.S.O. 1950, c. 67, s. 28.

Production
of bills and
vouchers
R.S.O. 1960,
c. 118

29.—(1) If a preliminary examination is had, the returning officer to whom the bills and vouchers relating to the election have been delivered as provided by *The Election Act* may be subpoenaed to produce the bills and vouchers for the purposes of the examination.

Custody

(2) Immediately upon the close of the examination, the bills and vouchers shall be returned to the returning officer and verified copies thereof may be made and filed as exhibits in lieu of the originals. R.S.O. 1950, c. 67, s. 29.

Attendance
of prisoners
as witnesses

30. Where the party to be examined is a prisoner, the sheriff, jailer or other officer having him in custody shall take him before the examiner if so ordered by a judge of the court. R.S.O. 1950, c. 67, s. 30, *amended*.

Depositions
may be used
on trial

31. Every party to the petition is entitled to use upon the trial depositions of the opposite party, but, where such party uses any part of a deposition, the election court may look at the whole deposition and allow such other part of it as is explanatory of the part used to be read in connection therewith. R.S.O. 1950, c. 67, s. 31.

List of
petitions

32.—(1) The registrar shall as soon as possible make out a list of all petitions that are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of the list open to the inspection of any person making application, and the petitions, as far as conveniently may be, shall be tried in the order in which they stand on the list.

Several
petitions
relating
to same
election

(2) Where more petitions than one relating to the same election or return are presented, they shall in the election list be bracketed together and shall be dealt with as far as practicable as one petition, but the petitions shall stand on the election list in the place where the last of them would have stood if it had been the only petition presented, unless a judge of the court otherwise directs. R.S.O. 1950, c. 67, s. 32, *amended*.

Trial to be
by two
judges

33. Every petition shall be tried by two judges of the Supreme Court without a jury. R.S.O. 1950, c. 67, s. 33.

34.—(1) All such arrangements as may be necessary for the holding of the election courts and the assignment from time to time of the judges before whom the election trials and trials of persons charged with corrupt practices are to take place shall be made by the judges of the Supreme Court or a majority of them. Assignment of judges for trial of petitions

(2) Where occasion for so doing arises, the judges of the Supreme Court, or a majority of them, may at any time substitute for any judge assigned to hold an election court any other judge of the Supreme Court. Substitution

(3) The judges of the Supreme Court, or a majority of them, may from time to time delegate to such of their number, not being fewer than four, as they see fit, the duties mentioned in subsection 1 or any of them. R.S.O. 1950, c. 67, s. 34. Delegation of duties

35.—(1) The Lieutenant Governor in Council may appoint a registrar, to be called the registrar of the election court, who shall attend the trials of petitions and perform such duties as are prescribed by order in council or the rules of court. Registrar of election court, appointment

(2) Where the registrar is unable to attend, the judges assigned to hold the court may appoint a registrar thereof, and he is entitled to such fees as are determined by the Lieutenant Governor in Council. Absence of registrar

(3) The salary of the registrar shall be determined by order in council and is in lieu of all fees. R.S.O. 1950, c. 67, s. 35. Salary

36.—(1) The trial of a petition shall take place in the electoral district the election or return for which is in question, unless it appears to the election court that it is desirable that the petition should be tried elsewhere, in which case the court may, with the consent of the parties, appoint such other place as appears most convenient. Place of trial

(2) The election court may adjourn the trial from time to time and from any one place to any other place within the electoral district, as seems expedient. Adjournment

(3) Nothing in this section prevents the election court from directing that the trial be adjourned to, be continued or closed in Toronto. R.S.O. 1950, c. 67, s. 36. Adjournment to Toronto

Notice of
trial

37. Notice of the time and place at which the petition will be tried shall be given in the prescribed manner, not less than fourteen days before the day on which the trial is to take place. R.S.O. 1950, c. 67, s. 37.

Reception
and
attendance
on the
judge

38. The judges shall be received and attended at the place where they are to try a petition, in the same manner, so far as circumstances will admit, as a judge is received and attended at a sittings of the High Court in a county town for the trial of actions. R.S.O. 1950, c. 67, s. 38.

Powers of
the election
court

39. Subject to this Act, the judges constituting an election court have the same powers, jurisdiction and authority as judges of the Supreme Court, and an election court is a court of record. R.S.O. 1950, c. 67, s. 39.

Certain
circum-
stances not
to stop trial

40. The trial or an appeal from a judgment of an election court may be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or his resignation of the seat, or the prorogation or dissolution of the Assembly. R.S.O. 1950, c. 67, s. 40.

Application
to change
petitioner
when delay
in fixing
day of trial

41.—(1) Where forty-five days have elapsed after the presentation of the petition without the day for trial having been fixed, any voter may, within fifty-five days after the presentation of the petition, apply to a judge of the court to be substituted for the petitioner or petitioners on such terms as are just and to have the date of trial fixed.

Dismissal
of petition

(2) Unless the application is made within such time, the petition shall be dismissed and all further proceedings thereunder shall be terminated upon such terms as the judge directs. R.S.O. 1950, c. 67, s. 41, *amended*.

Time for
commence-
ment of trial

42.—(1) Subject to section 43, the trial shall be commenced within six months from the time when the petition was presented and shall be continued from day to day until its conclusion, unless it appears to the election court that the requirements of justice render it necessary that the trial should be adjourned.

Postpone-
ment

(2) The election court may upon application of either party, after the day of trial has been fixed and before it has been commenced, postpone the trial on such terms as are just. R.S.O. 1950, c. 67, s. 42.

When trial
not to be
held

43. If the member-elect is entitled to take his seat, the trial shall not, without his consent, be held during, or within, fifteen days after the close of a session of the Assembly, and in the computation of any time or delay allowed for any

step or proceeding in respect of the trial, or for the commencement of the trial, the time occupied by the session shall not be reckoned. R.S.O. 1950, c. 67, s. 43.

44. Unless the election court otherwise directs, evidence in support of a charge of a corrupt practice may be received before proof has been given of the agency of the person alleged to have committed the corrupt practice. R.S.O. 1950, c. 67, s. 44.

When
evidence
of corrupt
practice
may be
received

45. On the trial of a petition complaining of an undue return and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if the respondent had presented a petition under section 13. R.S.O. 1950, c. 67, s. 45.

Cross
evidence
of undue
return

46. Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances will admit, as on the trial of an action. R.S.O. 1950, c. 67, s. 46.

Witness, how
subpoenaed
and sworn

47.—(1) The election court may, by order, compel the attendance as a witness at the trial of any person who appears to have been concerned in the election to which the petition relates, and any person refusing to obey such order is guilty of contempt of court.

Power of
election
court to
order
attendance

(2) The election court may examine any witness so compelled to attend or any person in court, although he is not called and examined by a party to the petition.

Examination
by court

(3) After a witness has been examined, he may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

Cross-
examination

(4) When a witness is a prisoner, the jailer or other officer having him in custody shall take him before the election court if so ordered by that court or by a judge of the Court of Appeal. R.S.O. 1950, c. 67, s. 47.

Prisoners
as witnesses

48.—(1) A person who is called before an election court shall not be excused from answering any question relating to an offence at or connected with the election, on the ground that the answer may criminate or tend to criminate him, or to establish his liability to a civil proceeding at the instance of the Crown or of any person, or on the ground of privilege, but,

Persons not
excused from
answering
on ground
of privilege

(a) a witness who answers truly all questions that he is required by the election court to answer is entitled

to receive a certificate of indemnity under the hands of the members of the court, stating that the witness has so answered; and

- (b) any such answer to a question put by or before an election court is not admissible in evidence against him in any proceeding under any Act of the Legislature.

Stay of proceeding against witness who has received certificate
R.S.O. 1960, c. 118

(2) Where a witness has received a certificate and a legal proceeding is at any time instituted against him for an offence under or a contravention of *The Election Act* committed by him before the date of the certificate at or in relation to the election, the court having cognizance of the proceeding shall on the production of the certificate stay the proceeding, and may award to such person such costs as he has been put to in the proceedings, but a witness who upon his own evidence is found by the election court to have been guilty of a corrupt practice, and who is reported therefor, is thereby subject to the penalties and disabilities mentioned in section 168 of *The Election Act*, unless such finding and report are reversed or set aside by the court. R.S.O. 1950, c. 67, s. 48.

Expenses of witnesses

49. A person appearing to give evidence before an election court is entitled to the like fees and expenses as are allowed to witnesses on the trial of civil actions, and such fees and expenses, if the witness was called and examined by the election court, shall be deemed to be part of the expenses of providing a court, and in other cases are costs of the party calling the witness. R.S.O. 1950, c. 67, s. 49.

Decision of election court

50. The election court shall determine whether the member whose return or election is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall also determine the matters in question on a petition, if any, presented under section 13, and, except in the case of an appeal as hereinafter provided, shall certify their determination to the Speaker and, upon the certificate being given, such determination is final. R.S.O. 1950, c. 67, s. 50.

Report of judges where charge is made of corrupt practices

51. Where a charge is made in a petition of a corrupt practice having been committed, the election court shall, with the certificate, and at the same time, report,

- (a) whether any corrupt practice has been proved to have been committed by or with the actual knowledge and consent of any and of which candidate and the nature of the corrupt practice;

- (b) the name of any person who has been proved to have been guilty of a corrupt practice;
- (c) the name of any person who upon his own evidence has been found guilty of a corrupt practice;
- (d) whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election;
- (e) whether they are of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable. R.S.O. 1950, c. 67, s. 51.

52. The election court may also report specially as to any matter arising in the course of the trial, an account of which ought to be submitted to the Assembly. R.S.O. 1950, c. 67, s. 52. Special report

53.—(1) Where an appeal is had from their judgment on the trial of a petition, the election court shall make the certificates and report to the Court of Appeal, and the same forms part of the record upon the appeal. Certificate for Court of Appeal

(2) The election court shall not certify their determination until after the security for costs of appeal has been deposited, or until the time limited for depositing the security has expired. R.S.O. 1950, c. 67, s. 53. Certificate not to be issued during time for appealing

54.—(1) Every certificate and every report shall be under the hands of both of the judges constituting the election court. Concurrence of judges

(2) If the judges differ as to whether a member whose return or election is complained of was duly returned or elected, they shall certify that difference, and, subject to appeal, he shall be deemed to be duly returned or elected. Where difference of opinion

(3) If the judges determine that a member was not duly returned or elected, but differ as to other matters arising upon the trial, they shall certify that difference, and, subject to appeal, the election is void. Agreement as to undue return or election

(4) If the judges differ as to any matter that might be the subject of a report, they shall certify that difference and make no report on that matter. R.S.O. 1950, c. 67, s. 54. Other matters

Speaker to
communicate
report to the
Assembly

55. The Speaker shall, as soon as practicable after he receives a certificate or a certificate and report, communicate the same to the Assembly, and the same shall forthwith thereafter be entered on the Journals, and the Assembly may give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution, as the circumstances may require. R.S.O. 1950, c. 67, s. 55.

If election
set aside
and appeal
entered

56.—(1) If the election court determines that a member was not duly returned or elected notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the certificate of the court received by the Speaker, but where the election court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the certificate of the court received by the Speaker.

Notice to
Speaker

(2) In the cases to which subsection 1 applies, where an appeal is entered, the registrar shall forthwith notify the Speaker of the determination of the election court and that an appeal therefrom is pending. R.S.O. 1950, c. 67, s. 56.

Time for
issue of writ
for new
election

57. A writ for a new election shall not be issued until after the expiration of eight days from the determination of the election court that the return or election is void and, if an appeal is in the meantime brought, the writ shall not issue pending the appeal. R.S.O. 1950, c. 67, s. 57.

Special
case

58.—(1) Where it appears to the court or to the election court that the case raised by the petition can be conveniently stated as a special case, either court, upon the application of a party or upon the consent of all parties, may direct the case to be stated accordingly, and such special case shall be heard before the Court of Appeal whose decision is final, and the registrar shall certify to the Speaker the judgment upon such special case and the petition.

Decision
as to
question
of law

(2) If it appears to the election court before or during the trial of a petition that there is a question of law that it would be convenient to have decided by the court before the trial of the petition is concluded, the election court may make an order accordingly, and may direct the mode in which the question shall be raised, and may in the meantime, if it appears necessary, adjourn the trial of the petition until the question has been decided, and shall thereafter deal with the petition upon the trial in accordance with the decision. R.S.O. 1950, c. 67, s. 58.

59.—(1) Subject to section 170 of *The Election Act*, where the judges constituting an election court disagree, they shall certify the disagreement as provided by section 54, and either party may thereupon bring the matter before the court, and the court shall, in disposing thereof, have the same jurisdiction in all respects as on an appeal from a decision of the election court and may determine all questions of law and fact that the election court might or should have determined, and the registrar shall certify the judgment of the court to the Speaker.

Disagree-
ment be-
tween the
trial judges
R.S.O. 1960,
c. 118

(2) Instead of determining all such questions, the court may refer the case back to the election court with such declarations and directions as the court thinks fit, and the election court shall thereupon dispose of the case in accordance with such declarations and directions, and shall certify as the case requires. R.S.O. 1950, c. 67, s. 59.

Reference
back

60.—(1) Subject to section 69, a party to a petition who is dissatisfied with the judgment of the election court may appeal therefrom to the Court of Appeal.

Appeal

(2) The party appealing shall within eight days from the day on which the judgment was given deposit with the registrar \$100 as security for costs. R.S.O. 1950, c. 67, s. 60 (1, 2).

Security
for costs

(3) The registrar shall thereupon set the appeal down to be heard on a day to be appointed by a judge of the court. R.S.O. 1950, c. 67, s. 60 (3), *amended*.

Setting
down for
hearing

(4) The appeal shall be given precedence over all ordinary business, but the court may for sufficient cause postpone the hearing. R.S.O. 1950, c. 67, s. 60 (4).

Precedence

(5) The party appealing shall within three days after the security for costs has been given, or within such further time as a judge of the court allows, give to the other parties affected by the appeal notice in writing that the appeal has been set down to be heard, and by the same notice the party appealing may limit the appeal to any specific question. R.S.O. 1950, c. 67, s. 60 (5), *amended*.

Notice of
setting
down

61. The appeal shall thereupon be heard and determined by the court, and such judgment shall be pronounced as in the opinion of the court should have been given by the election court. R.S.O. 1950, c. 67, s. 61.

Hearing

62. The court shall review the judgment upon questions of fact as well as of law and shall draw such inference from the facts or evidence as the election court should have drawn. R.S.O. 1950, c. 67, s. 62.

Court to re-
view decision
upon facts as
well as law

Powers of court as to amendments and evidence

63. The court has all the powers and duties as to amendment and otherwise of the election court, and may require any witness to be re-examined, and may receive further evidence, either by oral examination in court, or by affidavit or by deposition taken before any judge or other person whom the court names. R.S.O. 1950, c. 67, s. 63.

Judges may report upon demeanour of witnesses

64. Where the judgment of the election court depends in whole or in part upon the credit given to particular witnesses, and the judgment is appealed against, the election court may make a written report as to the demeanour of the witnesses and their mode of giving their evidence, and of the reasons for giving credit to the particular witnesses. R.S.O. 1950, c. 67, s. 64.

Return of deposit

65. The court may make such order as to the disposition of the deposit as seems just. R.S.O. 1950, c. 67, s. 65.

Registrar to certify judgment to the Speaker

66. The registrar shall certify to the Speaker the judgment of the court in the same manner as the election court but for the appeal would have done, and shall certify as to the matters and things as to which the election court would but for the appeal have been required to report. R.S.O. 1950, c. 67, s. 66.

New trial

67. Instead of so certifying, the court, upon such terms as to costs and otherwise as seem just, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case to the election court, or to some other election court, and, subject to any directions of the court, the case shall thereafter be proceeded with as if there had been no appeal. R.S.O. 1950, c. 67, s. 67.

Decision of Court of Appeal final

68. The judgment of the court on any matter or question under this Act or *The Election Act* is final, and is not subject to appeal. R.S.O. 1950, c. 67, s. 68.

No appeal in certain cases

69. There is no appeal from a decision of the election court that a candidate or other person has not been guilty of corrupt practices, or from a finding in favour of a candidate on any of the matters of defence mentioned in section 166 or 168 of *The Election Act*. R.S.O. 1950, c. 67, s. 69.

R.S.O. 1960, c. 118

Withdrawal of petitions

70.—(1) A petition shall not be withdrawn without the leave of a judge of the court upon special application to be made in the prescribed manner and at the prescribed time and place. R.S.O. 1950, c. 67, s. 70 (1), *amended*.

Notice of withdrawal

(2) The application shall not be made until the prescribed notice thereof has been given in the electoral district.

(3) Where there are more petitioners than one, the application to withdraw a petition shall not be made, except with the consent of all the petitioners. All petitioners must join in withdrawal

(4) Subject to section 41, on the hearing of the application, any person who might have been a petitioner may apply to be substituted as the petitioner. R.S.O. 1950, c. 67, s. 70 (2-4). Substitution of new petitioner

(5) A judge of the court may substitute the applicant as the sole petitioner, and, if the proposed withdrawal appears to be induced by a corrupt bargain or consideration, may direct that the security given remains as security for any costs that the substituted petitioner may be ordered to pay and that to the extent of the security the original petitioner or petitioners are liable to pay such costs. Order as to security where withdrawal is induced by corrupt bargain

(6) If the judge makes no order with respect to the security given, security to the same amount as would be required in the case of a petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with the petition and within four days after the order of substitution. R.S.O. 1950, c. 67, s. 70 (5, 6), *amended*. Security to be given by substituted petitioner

(7) Subject as aforesaid, a substituted petitioner stands in the same position, as nearly as may be, and is subject to the same liabilities as the original petitioner. R.S.O. 1950, c. 67, s. 70 (7). Liabilities of substituted petitioner

(8) If a petition is withdrawn, the petitioner shall pay the costs of the respondent, unless a judge of the court otherwise orders. R.S.O. 1950, c. 67, s. 70 (8), *amended*. Costs

71. If it appears that the withdrawal of the petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, the court shall report to the Speaker the circumstances attending the withdrawal. R.S.O. 1950, c. 67, s. 71, *amended*. Where court to report

72.—(1) A petition abates on the death of a sole petitioner or of the survivor of several petitioners. Abatement of petition by death

(2) The abatement of a petition does not affect any liability for costs previously incurred. R.S.O. 1950, c. 67, s. 72 (1, 2). Costs

(3) On the abatement of a petition, the prescribed notice of the abatement shall be given in the electoral district, and any person who might have been a petitioner may apply Notice of abatement to be given

to a judge of the court in the prescribed manner and at the prescribed time and place to be substituted as the sole petitioner.

Substitution
of new
petitioner on
abatement

(4) The judge may substitute the applicant as the petitioner upon his giving security to the same amount as is required in the case of a petition. R.S.O. 1950, c. 67, s. 72 (3, 4), *amended*.

Substitution
of new
petitioner
where peti-
tioner not
qualified

73. Where a petitioner is not qualified to be a petitioner, the petition shall not, on that account, be dismissed, if within such time as a judge of the court allows for that purpose another petitioner is substituted, and the substitution shall be made on such terms and conditions as to the judge seems proper. R.S.O. 1950, c. 67, s. 73, *amended*.

Notice
required if
respondent
dies or seat
becomes
vacant

74.—(1) If, before or during the trial of a petition,

(a) the respondent dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the respondent gives notice to the court or to the election court in the prescribed manner and at the prescribed time, that he does not intend to oppose, or further to oppose, the petition,

notice of such event shall be given in the prescribed manner in the electoral district. R.S.O. 1950, c. 67, s. 74 (1).

Applicant
to be ad-
mitted as a
respondent

(2) Within the prescribed time after the notice is given, any person who might have been a petitioner may apply to a judge of the court to be admitted as a respondent to oppose the petition, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent, and any number of persons, not exceeding three, may be so admitted. R.S.O. 1950, c. 67, s. 74 (2), *amended*.

Adjourn-
ment of
trial

(3) If any of the events mentioned in subsection 1 happen during the trial, the election court shall adjourn the trial in order that notice may be given as hereinbefore provided.

Disabilities
of respon-
dent in
such case

(4) A respondent who has given the prescribed notice shall not be allowed to appear or act as a party against the petition in any proceeding thereon, and shall not sit or vote in the Assembly until the Assembly has been informed of the report on the petition, and the court shall report the giving of the notice to the Speaker. R.S.O. 1950, c. 67, s. 74 (3, 4).

75.—(1) Any two of the judges of the Supreme Court constitute a court, hereinafter called the summary trial court, for the trial of corrupt practices and of offences punishable under section 185 of *The Election Act* committed at or in connection with an election. Court for trial of corrupt practices
R.S.O. 1960, c. 118

(2) For the purposes of this section, the election court trying a petition is also a summary trial court. Election court a summary trial court

(3) If it is made to appear to a judge of the Supreme Court or to an election court by affidavit or by the evidence taken on the trial of the petition or otherwise that any person is charged with or has committed any such corrupt practice or offence, the judge or the election court, as the case may be, may order the person to appear before a summary trial court to answer the charge stated in the order at the time and place named therein. Order of court where persons charged with corrupt practice

(4) The order may be served by delivering a copy thereof to the person charged or in such other manner as the judge or the election court or the summary trial court directs. Service of order

(5) If the person charged does not attend at the time and place named in the order, the summary trial court may issue a warrant to compel his attendance. Issue of warrant on non-attendance

(6) At the time and place named in the order and upon proof of the service thereof, whether the person charged appears or not, the summary trial court shall hear and determine the charge in a summary manner, and has the same powers, jurisdiction and authority for the investigation as an election court at the trial of a petition alleging corrupt practices, and may adjourn the hearing and the rendering of a decision from time to time and from place to place as is deemed proper. Disposal of case by court

(7) The person charged is entitled to be represented by counsel and to make his full answer and defence and to call and examine and to cross-examine witnesses in the same manner and to the same extent as a party to a petition. Rights of person charged

(8) If it is found that the person charged has been guilty of a corrupt practice or offence mentioned in the order, the court shall adjudge the same accordingly and shall order that the person charged suffer the imprisonment or pay the amount of the money penalty and in default suffer the imprisonment, authorized or provided by law for the corrupt practice or offence of which he has been found guilty, and, if imprisonment is imposed, may direct in what jail or other Order for payment of money penalty and imprisonment, if any

place of confinement the person found guilty shall be imprisoned, and, if no place is named, the imprisonment shall be in the common jail of the county in which the sentence is pronounced.

Costs

(9) The court has power by the same or a subsequent order to direct by whom the costs of the person prosecuting the charge or of the person charged or any part thereof shall be paid, and where costs are payable by a person found guilty payment may be enforced in the same manner as the payment of a money penalty.

Imprisonment in default of payment of money penalty

(10) Where a money penalty is imposed, the court shall direct that in default of the amount being paid forthwith or within a time not exceeding one month, to be limited by the court, the person found guilty shall be imprisoned for a term not exceeding one year in a jail or other place of imprisonment to be named by the court, unless the amount of the penalty is sooner paid, and, in default of any place being named, the imprisonment shall be in the common jail of the county in which the sentence is pronounced.

Commencement of term of imprisonment

(11) Where a money penalty is imposed in addition to imprisonment, the term of imprisonment in default of payment shall begin at the expiration of the first-mentioned imprisonment.

Power of court as to imprisonment

(12) For the infliction of the imprisonment imposed, whether in the first instance or in default of payment of a penalty or of costs, the court has the like authority as the Supreme Court to give effect to the judgment of the court, and the sheriff and jailer shall obey all orders of the court made in that behalf.

Judgment a bar

(13) The judgment is a bar to any other proceeding against the same person for the offence of which he has been found guilty.

Notice to person charged when present in court

(14) If, upon the trial of a petition or upon the trial of any person under this section, it appears to the court that a person then present in court has committed any such corrupt practice or offence, the court may then and there state to him the corrupt practice or offence with which he is charged, and may appoint a time and place for his trial, and it is not necessary to serve any further order for his attendance, and the same proceedings may be had as if an order had been made and served under subsections 3 and 4.

Direction of prosecution

(15) The election court may direct any counsel or solicitor present at the trial of a petition or the Crown attorney of the county in which the trial takes place to institute and carry

on proceedings under this section against any person who from the evidence given at the trial appears to have committed such corrupt practice or offence.

(16) A Crown attorney or a counsel or solicitor who is directed to institute and carry on proceedings is entitled to costs and fees according to the Supreme Court scale or to such scale as is fixed by the Lieutenant Governor in Council, and, if such costs and fees are not recovered from the person charged, they shall be paid in the case of a county in the first instance by the county and the county shall be reimbursed out of the Consolidated Revenue Fund, and in the case of a district they shall be paid out of the Consolidated Revenue Fund.

(17) Witnesses are entitled to receive fees and allowances for attending at the proceedings payable on the scale and in the manner provided by *The Crown Witnesses Act*.

Fees of
counsel

Witness
fees

R.S.O. 1960,
c. 84

(18) The court may upon the application of the person prosecuting the charge make an order for payment forthwith of the penalty imposed and costs without directing imprisonment in default of payment, and that execution may be issued out of such office of the Supreme Court as the court directs, and that any other proceedings may be taken for the recovery of the penalty imposed and costs that might be taken upon a judgment of the Supreme Court.

Order for
payment and
issue of
execution

(19) If a money penalty is recovered at the instance of a private prosecutor under this section, one half belongs to him and the other half to the Crown.

Application
of money
penalties

(20) Where practicable, the election court trying a petition shall, during the trial or immediately thereafter, proceed with the trial of persons who appear to have committed or who are charged with having committed any such corrupt practices or offences.

Trial for
corrupt
practices to
follow trial
of petition

(21) Every such proceeding shall be commenced within one year after the corrupt practice or offence complained of was committed, and not afterwards. R.S.O. 1950, c. 67, s. 75.

Limitation
of time for
commence-
ment of
prosecution

76. Except as otherwise herein provided, the costs, charges and expenses of and incidental to or consequent upon or arising out of a petition are in the discretion of the court or judge before whom the proceeding is pending who shall have full power to determine by whom, in what manner and to what extent the same are to be paid. R.S.O. 1950, c. 67, s. 76.

Costs

When
petition filed
before
notice of
disclaimer

77. If a petition is filed before the petitioner has notice of the filing of a disclaimer and is dismissed in consequence of the disclaimer, the respondent shall pay all costs of the petitioner up to the time the petitioner received notice of the disclaimer and the costs of the application to dismiss. R.S.O. 1950, c. 67, s. 77.

When agent
may be
ordered to
pay costs

78.—(1) If on the trial of a petition it is adjudged that a corrupt practice has been committed by an agent but without the actual knowledge and consent of the candidate and costs are awarded against the candidate, the election court on the application of any party to the petition may order the agent to be summoned to appear before an election court at a time fixed in the order to show cause why he should not be ordered to pay such costs or so much thereof as seem just and to indemnify the candidate against the payment thereof.

If agent does
not appear

(2) If at the time so fixed the agent does not appear, he may be ordered, upon the evidence given at the trial of the petition and upon such further evidence, if any, as is adduced, to pay the whole or such part of the costs awarded against the candidate as seems just, and to indemnify the candidate against the payment thereof, and, if the agent appears, such order may be made as seems just after hearing the parties and such evidence as is adduced.

Execution
for costs

(3) The party to whom costs are awarded is entitled to issue execution for the amount ordered to be paid by the agent against the agent as well as against the candidate. R.S.O. 1950, c. 67, s. 78 (1-3).

Repayment
of costs by
agent to
candidate

(4) If the costs awarded against the agent are paid by the candidate, he is entitled to be repaid them in turn by the agent, and may upon the order of a judge of the court issue execution against the agent therefor. R.S.O. 1950, c. 67, s. 78 (4), *amended*.

Taxation
and
recovery
of costs

79.—(1) The total amount to be allowed for counsel fees in respect of the trial upon taxation as between party and party shall not exceed \$50 for the first day upon which the trial is held and \$40 for each subsequent day during which it is continued.

Counsel
fees

(2) No greater sum than \$300 in addition to counsel fees is taxable against either party as costs in the cause in addition to witness fees and other actual and necessary disbursements taxable as between party and party in an action in the Supreme Court.

(3) This section does not apply to costs taxable against a candidate who has incurred the penalties and disabilities provided by *The Election Act* for corrupt practices committed by him or with his actual knowledge and consent. R.S.O. 1950, c. 67, s. 79.

No limitation in certain cases R.S.O. 1960, c. 118

80.—(1) A party to whom costs are awarded against the petitioner may, within thirty days from the date of the judgment or order awarding them or within such other time as a judge of the court allows, file the certificate of taxation with the registrar and at the expiration of the period is entitled to receive out of the deposit the amount taxed to him. R.S.O. 1950, c. 67, s. 80 (1), *amended*.

Recovery of costs against petitioner

(2) If the total amount of the certificates so filed exceeds the deposit, each of the parties filing the same is entitled to receive his proportion thereof, and may forthwith issue execution for the residue. R.S.O. 1950, c. 67, s. 80 (2).

Where costs exceed deposit

81. The costs of a petition shall not be awarded against a candidate where he is not, by the judgment of the court, unseated, but this section does not apply to cross petitions. R.S.O. 1950, c. 67, s. 81.

Costs not to be awarded against candidate who is not unseated

82. No costs beyond those taxable between party and party are, in the absence of a special contract, taxable between solicitor and client. R.S.O. 1950, c. 67, s. 82.

Provisions as to costs not specially provided for

83. Unless the election court otherwise directs, it is not necessary on the trial of a petition or of any proceeding under this Act to prove the writ of election or the return thereof. R.S.O. 1950, c. 67, s. 83.

Writ, etc., need not be produced at trial

84. The court and any judge of the Supreme Court, for the purpose of enforcing obedience to any judgment or order, or for punishing contempt, has power to grant a writ of attachment. R.S.O. 1950, c. 67, s. 84.

Power to punish for contempt and enforce rules

85.—(1) The travelling and other expenses of the judges and the expenses incurred by the sheriff in attending them and in providing the court and accessories and the fees and travelling and other expenses of the registrar shall be audited and paid in the same manner as the fees and expenses allowed to other officers under *The Election Act*.

Expenses of court, how payable

(2) The fees and expenses of the sheriff and other officers for publishing any notice or for the service of process or other papers at the instance of any party to the petition

When payable by parties

are costs in the cause and shall be borne and paid in the first instance by the party on whose behalf the services are rendered. R.S.O. 1950, c. 67, s. 85.

Prosecution
of persons
reported for
corrupt
practices

86. Where an election court reports that a person has been guilty of a corrupt practice, it is the duty of the Crown attorney to prosecute such person, unless the election court otherwise directs. R.S.O. 1950, c. 67, s. 86.

Election not
to be ques-
tioned except
under Act

87. No election or return shall be questioned except in accordance with this Act. R.S.O. 1950, c. 67, s. 87.

CHAPTER 66

The Conveyancing and Law of Property Act

1. In this Act,

Interpre-
tation

- (a) "conveyance" includes an assignment, appointment, lease, settlement, and other assurance, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property, and "convey" has a meaning corresponding with that of conveyance;
- (b) "land" includes messuages, tenements, hereditaments, whether corporeal or incorporeal, and any undivided share in land;
- (c) "mortgage" includes a charge on property for securing money or money's worth;
- (d) "mortgage money" means money or money's worth secured by a mortgage;
- (e) "mortgagee" includes a person from time to time deriving title under the original mortgagee;
- (f) "mortgagor" includes a person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate, interest or right in the mortgaged property;
- (g) "property" includes real and personal property, a debt, a thing in action, and any other right or interest;
- (h) "puffer" means a person appointed to bid on the part of the seller;
- (i) "purchaser" includes a lessee, a mortgagee and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property, and "purchase" has a meaning corresponding with that of purchaser; but "sale" means only a sale properly so called. R.S.O. 1950, c. 68, s. 1.

Conveyance
of corporeal
tenements

2. All corporeal tenements and hereditaments, as regards the conveyance of the immediate freehold thereof, lie in grant as well as in livery. R.S.O. 1950, c. 68, s. 2.

Form and
operation of
feoffments

3. A feoffment, otherwise than by deed, is void and no feoffment shall have any tortious operation. R.S.O. 1950, c. 68, s. 3.

Estate tail
to be con-
strued as
fee simple

4. A limitation in a conveyance or will that before the 27th day of May, 1956, would have created an estate tail shall be construed as an estate in fee simple or the greatest estate that the grantor or testator had in the land. 1956, c. 10, s.1.

Limitation

5.—(1) In a conveyance, it is not necessary, in the limitation of an estate in fee simple, to use the word "heirs". 1956, c. 10, s. 2 (1).

Idem

(2) For the purpose of such limitation, it is sufficient in a conveyance to use the words "in fee simple" or any other words sufficiently indicating the limitation intended. R.S.O. 1950, c. 68, s. 4 (2); 1956, c. 10, s. 2 (2).

Effect of
conveyance
without
words of
limitation

(3) Where no words of limitation are used, the conveyance passes all the estate, right, title, interest, claim and demand that the conveying parties have in, to, or on the property conveyed, or expressed or intended so to be, or that they have power to convey in, to, or on the same.

Saving

(4) Subsection 3 applies only if and as far as a contrary intention does not appear from the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

Operation
of section

(5) This section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1950, c. 68, s. 4 (3-5).

Receipts

6. A receipt for consideration money or securities in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any further receipt being endorsed on it. R.S.O. 1950, c. 68, s. 5.

Receipt as
evidence for
subsequent
purchaser

7. A receipt for consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof. R.S.O. 1950, c. 68, s. 6.

8. On a sale the purchaser is not entitled to require that the conveyance to him be executed in his presence or that of his solicitor, but he is entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. R.S.O. 1950, c. 68, s. 7. Rights of purchaser as to execution

9. A partition of land, an exchange of land, an assignment of a chattel interest in land, and a surrender in writing of land not being an interest that might by law have been created without writing, are void at law, unless made by deed. R.S.O. 1950, c. 68, s. 8. Requirement of deed for certain interests

10. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed, but no such disposition, by force only of this Act, defeats or enlarges an estate tail. R.S.O. 1950, c. 68, s. 9. Disposal of certain interests in land by deed

11. An exchange or a partition of any tenements or hereditaments does not imply any condition in law, and the word "give" or the word "grant" in a conveyance does not imply any covenant in law, except so far as the word "give" or the word "grant" may, by force of any Act in force in Ontario, imply a covenant. R.S.O. 1950, c. 68, s. 10. Exchange or partition, "give" or "grant"

12. Sections 9, 10 and 11 do not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850. R.S.O. 1950, c. 68, s. 11. Application of ss. 9-11

13.—(1) Where by any letters patent, assurance or will, made and executed after the 1st day of July, 1834, land has been or is granted, conveyed or devised to two or more persons, other than executors or trustees, in fee simple or for any less estate, it shall be considered that such persons took or take as tenants in common and not as joint tenants, unless an intention sufficiently appears on the face of the letters patent, assurance or will, that they are to take as joint tenants. Effect of grants, devises, etc., to two or more

(2) This section applies notwithstanding that one of such persons is the wife of another of them. R.S.O. 1950, c. 68, s. 12. Husband and wife

14. Where two or more persons acquire land by length of possession, they shall be considered to hold as tenants in common and not as joint tenants. R.S.O. 1950, c. 68, s. 13. Land acquired by possession by two or more

What included in conveyance

15.—(1) Every conveyance of land, unless an exception is specially made therein, includes all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever to such land belonging or in any-wise appertaining, or with such land demised, held, used, occupied and enjoyed or taken or known as part or parcel thereof, and, if the conveyance purports to convey an estate in fee simple, also the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits of the same land and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever of the grantor into, out of or upon the same land, and every part and parcel thereof, with their and every of their appurtenances.

Application of section

(2) Except as to conveyances under former Acts relating to short forms of conveyances, this section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1950, c. 68, s. 14.

Meaning of "mining rights"

16. Unless the contrary appears to be the intent of the instrument, where in a conveyance the "mining rights" in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the ores, mines and minerals on or under the land, together with such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1950, c. 68, s. 15.

Meaning of "surface rights"

17. Unless the contrary appears to be the intent of the instrument, where in a conveyance the "surface rights" in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the land therein described with the exception of the ores, mines and minerals on or under the land and such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1950, c. 68, s. 16.

Application

18. In an instrument purporting to deal with "mining rights" or "surface rights" these expressions respectively have the meaning given them by sections 16 and 17. R.S.O. 1950, c. 68, s. 17.

Operation of ss. 16-18

19. Sections 16, 17 and 18 have effect only as to conveyances or instruments executed on or after the 1st day of July,

1914, and do not apply to conveyances by the Crown. R.S.O. 1950, c. 68, s. 18.

20. Any corporation capable of taking and conveying land in Ontario shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale in like manner as a person in his natural capacity, subject to any general limitations or restrictions and to any special provisions as to holding or conveying land that are applicable to the corporation. R.S.O. 1950, c. 68, s. 19.

How
corporations
may convey

21.—(1) Where land subject to an encumbrance, whether immediately payable or not, is sold by a court or out of court, the court in which the sale takes place or the Supreme Court may, on the application of a party to the sale, direct or allow payment into court, in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, of such amount as, having regard to the interest that it will earn, the court considers will be sufficient by means of the income thereof to keep down or otherwise provide for that charge, and, in any other case of capital money charged on the land, of an amount sufficient to meet the encumbrance and any interest due thereon, but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, not exceeding one-tenth of the original amount to be paid in, unless the court for special reasons thinks fit to require a larger additional amount.

Provision for
sales free
from encum-
brances

(2) The court may thereupon, either after or without notice to the encumbrancer, declare the land to be freed from the encumbrance, and may make any order for conveyance or vesting order proper for giving effect to the sale.

Conveyance
or vesting
order

(3) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

Directions

(4) Payment of money into court effectually exonerates therefrom the person making the payment and frees the land from the charge or encumbrance. R.S.O. 1950, c. 68, s. 20.

Effect of
payment
into court

22. Every covenant made after the 24th day of March, 1950, that but for this section would be annexed to and run with land and that restricts the sale, ownership, occupation

Covenants
to restrict
use of land
because of
race, creed,
etc.

or use of land because of the race, creed, colour, nationality, ancestry or place of origin of any person is void and of no effect. R.S.O. 1950, c. 68, s. 21.

Covenants
to be
implied

23.—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

On convey-
ance for
value by
beneficial
owner

1. In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants for,

- i. right to convey,
- ii. quiet enjoyment,
- iii. freedom from encumbrances, and
- iv. further assurance,

R.S.O. 1960,
c. 372

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Conveyances Act*, and therein numbered 2, 3, 4 and 5, subject to that Act.

On convey-
ance of
leaseholds
for value by
beneficial
owner

2. In a conveyance of leasehold land for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys and is expressed to convey as beneficial owner:

That, notwithstanding anything by the person who so conveys, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as

aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance.

3. In a conveyance the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a mentally incompetent person, or under an order of the court, which covenant shall be deemed to extend to every such person's own acts only, namely: On conveyance by trustee, etc.

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to any deed, act, matter or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof is or may be impeached, charged, affected, or encumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying such subject-matter or any part thereof, in the manner in which it is expressed to be conveyed.

4. In a conveyance by way of settlement the following covenant by a person who conveys and is expressed to convey as settlor, namely: On settlement for further assurance, limited

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made, and those deriving title under them, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by them or any of them shall be reasonably required.

On convey-
ance by
direction of
beneficial
owner

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, the person giving the direction, whether or not he conveys and is expressed to convey, as beneficial owner, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction, and the covenants on his part mentioned in paragraph 1 of subsection 1 shall be implied accordingly.

Enforcing
covenants

(3) The benefit of a covenant so implied is annexed and incident to and goes with the estate or interest of the implied covenantee, and is capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Variation of
covenants

(4) A covenant so implied may be varied or extended and as so varied or extended operates, as far as may be, in the like manner and with all the like incidents, effects and consequences as if such variations or extensions were directed in this section to be implied. R.S.O. 1950, c. 68, s. 22.

Operation of
covenants,
inheritance

24.—(1) A covenant relating to land of inheritance or to land held for the life of another shall be deemed to be made with the covenantee, his heirs and assigns, and has effect as if heirs and assigns were expressed.

Idem,
not of
inheritance

(2) A covenant relating to land not of inheritance or to land not held for the life of another shall be deemed to be made with the covenantee, his executors, administrators and assigns, and has effect as if executors, administrators and assigns were expressed. R.S.O. 1950, c. 68, s. 23.

Mode of
executing
powers

25.—(1) A deed executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by an instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, be executed or attested with some additional or other form of execution or attestation or solemnity.

Saving of
other re-
quirements

(2) This section does not operate to defeat any direction in the deed or instrument creating the power that the consent of a particular person is necessary to a valid execution, or that any act is performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the deed or instrument.

(3) Nothing in this section prevents the donee of a power from executing it conformably to the power. R.S.O. 1950, c. 68, s. 24. Power may be observed

26.—(1) A person to whom a power, whether coupled with an interest or not, is given may by deed disclaim or re-lease or contract not to exercise the power. Disclaimer of power by donee

(2) A person disclaiming is not afterwards capable of exercising or joining in the exercise of the power, and on such disclaimer the power may be exercised by the other or others or the survivor or survivors of the others of the persons to whom the power was given, unless the contrary is expressed in the instrument creating the power. R.S.O. 1950, c. 68, s. 25. Disclaimers of power

27. Where under a power of sale a sale in good faith is made of an estate with the timber thereon or with any articles attached thereto, and the tenant for life or any other party to the transaction is by mistake allowed to receive for his own benefit a part of the purchase money or value of the timber or article, the Supreme Court, upon an action brought or upon application made in a summary way, may declare that upon payment by the purchaser or the claimant under him of the full value of the timber or article at the time of the sale, with such interest thereon as the court directs, and the settlement of the principal money and interest under the direction of the court, upon such person as in the opinion of the court is entitled thereto, the sale ought to be established, and upon payment and settlement being made accordingly, the court may declare the sale valid, and thereupon the legal estate vests and goes in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R.S.O. 1950, c. 68, s. 26. Validity of sale under power although mistaken payment to tenant for life

28.—(1) No appointment made in exercise of a power or authority to appoint any property, real or personal, among several objects, is invalid or shall be impeached on the ground that an unsubstantial, illusory or nominal share only is thereby appointed to, or left unappointed to devolve upon, any one or more of the objects of such power, or upon the ground that any object of such power has been altogether excluded, but every such appointment is valid and effectual, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or take no share thereof, or nominal share of the property subject to such power. Illusory appointments

Saving of
positive re-
quirements
in constating
instrument

(2) Nothing in this section prejudices or affects any provision in a deed, will or other instrument creating any such power that declares the amount of the share or shares from which no object of the power shall be excluded or that some one or more object or objects of the power shall not be excluded or give any validity, force or effect to any appointment, other than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed, to devolve upon any object of such power. R.S.O. 1950, c. 68, s. 27.

Tenancy by
the curtesy

R.S.O. 1960,
c. 229

R.S.O. 1960,
c. 106

29. Where a husband has issue born alive and capable of inheriting land to which his wife is entitled in fee simple and the husband survives his wife, whether such issue live or not, the husband is, subject to *The Married Women's Property Act*, entitled to an estate for his natural life in such land as has not been disposed of by her deed or will, but, if he has no such issue by his wife, he is not entitled to any further or other estate or interest in such land in the event of surviving his wife, except such as is devised to him by her will, or such as he becomes entitled to under *The Devolution of Estates Act*. R.S.O. 1950, c. 68, s. 28, *amended*.

Waste by
tenants by
curtesy, etc.

30. A tenant by the curtesy, a dowress, a tenant for life or for years, and the guardian of the estate of an infant, are impeachable for waste and liable in damages to the person injured. R.S.O. 1950, c. 68, s. 29.

Waste by
tenant for
life without
impeach-
ment of
waste

31. An estate for life without impeachment of waste does not confer upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer the right expressly appears by the instrument creating the estate. R.S.O. 1950, c. 68, s. 30.

Waste be-
tween joint
tenants
and tenants
in common

32. Tenants in common and joint tenants are liable to their co-tenants for waste, or, in the event of a partition, the part wasted may be assigned to the tenant committing the waste at the value thereof to be estimated as if no waste had been committed. R.S.O. 1950, c. 68, s. 31.

Waste by
lessees

33. Lessees making or suffering waste on the demised premises without licence of the lessors are liable for the full damage so occasioned. R.S.O. 1950, c. 68, s. 32.

Release of
part of land
from
rent-charge

34. The release from a rent-charge of part of the land charged therewith does not extinguish the whole rent-charge, but operates only to bar the right to recover any part of it out of the land released without prejudice to the rights of all

persons interested in the land remaining unreleased and not concurring in or confirming the release. R.S.O. 1950, c. 68, s. 33.

35. Where by a deed, will or other instrument land is limited to uses, all uses thereunder, whether expressed or implied by law and whether immediate or future or contingent or executory or to be declared under any power therein contained, take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses, and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris* are not necessary for the support of, or to give effect to, future or contingent or executory uses, nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended or to remain or to subsist in him or elsewhere. R.S.O. 1950, c. 68, s. 34.

36. Every contingent remainder is capable of taking effect notwithstanding the determination by forfeiture, surrender or merger of any preceding estate of freehold. R.S.O. 1950, c. 68, s. 35.

37. There shall not be any merger by operation of law only of any estate, the beneficial interest in which, prior to *The Ontario Judicature Act, 1881*, would not have been deemed merged or extinguished in equity. R.S.O. 1950, c. 68, s. 36.

38.—(1) Where a person makes lasting improvements on land under the belief that it is his own, he or his assigns are entitled to a lien upon it to the extent of the amount by which its value is enhanced by the improvements, or are entitled or may be required to retain the land if the court is of opinion or requires that this should be done, according as may under all circumstances of the case be most just, making compensation for the land, if retained, as the court directs. R.S.O. 1950, c. 68, s. 37.

(2) In subsection 1, "court" means Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate.

(3) Where an application under subsection 1 is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission
of proceed-
ings

(4) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of
proceedings

(5) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings shall *ipso facto* be removed into the Supreme Court.

Appeal

(6) An appeal lies to the Court of Appeal from any order made under this section. 1952, c. 12, s. 1.

Rule as to
purchases of
reversions

39. No purchase made in good faith and without fraud of any revisionary interest in property shall be opened or set aside on the ground of undervalue. R.S.O. 1950, c. 68, s. 38.

Onus of
proof

40. It is not necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money or any part thereof. R.S.O. 1950, c. 68, s. 39.

Assignment
of property
to wife or
self and
others

41. Any property may be conveyed by a person to himself jointly with another person by the like means by which it might be conveyed by him to another person, and may in like manner be conveyed or assigned by a husband to his wife, or by a wife to her husband, alone or jointly with another person. R.S.O. 1950, c. 68, s. 40.

Conveyance
of property
to himself

42. A person may convey property to or vest property in himself in like manner as he could have conveyed the property to or vested the property in another person. R.S.O. 1950, c. 68, s. 41.

Two or more
persons may
convey to
any one or
more of
themselves

43. Two or more persons, whether or not they are trustees or personal representatives, may convey and shall be deemed always to have been capable of conveying property vested in them to any one or more of themselves in like manner as they could have conveyed the property to a third party, but, if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance is liable to be set aside. R.S.O. 1950, c. 68, s. 42.

Joint
tenancy of
corporation
and an
individual

44.—(1) A corporation is and has been capable of acquiring and holding real or personal property in joint tenancy in the same manner as if it were an individual, and, where a corporation and an individual, or two or more corporations, became or become entitled to any such property under

circumstances or by virtue of any instrument that would, if the corporation had been an individual, have created a joint tenancy, they are and have been entitled to the property as joint tenants, but the acquisition and holding of property by a corporation in joint tenancy has been and is subject to the like conditions and restrictions as attach to the acquisition and holding of property by a corporation in severalty.

(2) Where a corporation is joint tenant of property and the corporation dissolves, the property devolves on the other joint tenant. R.S.O. 1950, c. 38, s. 43.

Devolution
on dissolution
of
corporate
joint tenant

45. Where by the terms of a conveyance of land a right of way or easement is reserved or excepted from the land thereby transferred or charged, such reservation or exception is effectual and shall be deemed always to have been effectual to vest the right of way or easement in the transferor or chargor of the land notwithstanding that the transferee or chargee does not execute the instrument. R.S.O. 1950, c. 68, s. 44.

Effect of
reservation
of right of
way or other
easement

46. Where an estate is, by a marriage or other settlement, limited in remainder to, or to the use of, the first or other son or sons of the body of a person lawfully begotten, with any remainder over to, or to the use of, any other person or in remainder to, or to the use of, a daughter lawfully begotten, with any remainder to any other person, any son or daughter of such person lawfully begotten or to be begotten who is born after the decease of his or her father shall, by virtue of such settlement, take such estate so limited to the first and other son or daughter in the same manner as if born in the lifetime of his or her father, although there may be no estate limited to trustees, after the decease of the father, to preserve the contingent remainder to such afterborn son or daughter, until he or she come *in esse*, or is born, to take the same. R.S.O. 1950, c. 68, s. 45.

Capacity of
posthumous
children to
take in
remainder

47. If a person for whose life an estate is granted remains out of Ontario or absents himself therefrom for the space of seven years together so that it cannot be ascertained whether he is alive or dead and no sufficient proof is made of the life of such person in any action commenced for recovery of such estate by the lessor or reversioner, the person upon whose life such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the estate by the lessor or reversioner, his heirs or assigns, judgment shall be given accordingly. R.S.O. 1950, c. 68, s. 46.

When death
of *cestui que
vie* presumed

Right of
tenant when
cestui que vie
proved to be
living

48. If a person is evicted out of land by virtue of section 47, and if afterwards the person upon whose life such estate depends returns to Ontario, or in any action to be brought for recovery of the same, is shown to be living or to have been living at the time of the eviction, the tenant or lessee who was ousted, his executors, administrators or assigns, may re-enter, repossess, have, hold and enjoy the land in his former estate, for and during the life, or so long a term as the person upon whose life the estate depends is living, and also shall, upon action to be brought by him against the lessor, reversioner, tenant in possession or other person, who, since the time of the eviction, received the profits of the land, recover for damages the full profits thereof, with lawful interest for, and from, the time that he was ousted and kept or held out of the land by such lessor, reversioner, tenant in possession or other person, whether the person upon whose life such estate depends is living or dead at the time of bringing the action. R.S.O. 1950, c. 68, s. 47.

Order for
production
of person at
instance of
reversioner,
etc.

49.—(1) The Supreme Court may, on the application of a person who has a claim or demand in, or to, any remainder, reversion, or expectancy, in, or to, any estate in land, after the death of a person within age, married woman, or any other person whomsoever, upon affidavit made by the person so claiming such estate of his title, and that he has cause to believe that such minor, married woman or other person is dead, and that his or her death is concealed by the guardian, trustee, husband or other person, which application may be made once a year if the person aggrieved thinks fit, order that such guardian, trustee, husband or other person concealing, or suspected to conceal, such person, do, at such time and place as the court directs, on personal or other due service of such order, produce and show to such person and persons, not exceeding two, as shall in such order be named by the party prosecuting such order, such minor, married woman or other person.

Order for
production
of person
before
before com-
missioner

(2) If such guardian, trustee, husband or other person refuses or neglects to produce or show such minor, married woman or other person on whose life any such estate depends according to the directions of the order, the court is hereby authorized and required to order such guardian, trustee, husband or other person to produce such minor, married woman, or other person concealed, in the court or otherwise before commissioners to be appointed by the court at such time and place as the court directs, two of which commissioners shall be nominated by the party prosecuting such order, at his costs and charges.

(3) If such guardian, trustee, husband or other person refuses or neglects to produce such minor, married woman, or other person so concealed, in court or before such commissioners, whereof return shall be made by such commissioners and filed in the office of the Registrar of the Supreme Court at Osgoode Hall, in either, or any, of such cases, such minor, married woman or other person shall be taken to be dead, and it is lawful for any person claiming any right, title, or interest, in remainder or reversion, or otherwise, after the death of such minor, married woman or other person to enter upon such land as if such minor, married woman or other person were actually dead. R.S.O. 1950, c. 68, s. 48.

50. If it appears to the court by affidavit that such minor, married woman or other person is, or lately was, at some certain place out of Ontario in the affidavit mentioned, the party prosecuting such order, at his costs and charges, may send over one or both of the persons appointed by the order to view such minor, married woman or other person, and if such guardian, trustee, husband or other person, concealing, or suspected to conceal, such person, refuses or neglects to produce, or procure to be produced to such person or persons a personal view of such minor, married woman or other person, then such person or persons shall make a true return of such refusal or neglect to the court, which shall be filed in the office of the Registrar of the Supreme Court at Osgoode Hall and thereupon such minor, married woman or other person shall be taken to be dead, and any person claiming any right, title or interest in remainder, reversion or otherwise, after the death of such minor, married woman or other person, may enter upon such land as if such minor, married woman or other person were actually dead. R.S.O. 1950, c. 68, s. 49.

51. If it afterwards appears, upon proof in an action to be brought, that such minor, married woman or other person was alive at the time such order was made, such minor, married woman, guardian, trustee or other person having any estate or interest determinable upon such life may re-enter upon the land and may maintain an action against those who, since the order, received the profits thereof, or their executors or administrators, and recover full damages for the profits of the same received from the time that such minor, married woman or other person having an estate or interest determinable upon such life was ousted of the possession of such land. R.S.O. 1950, c. 68, s. 50.

When it appears that guardian, etc., cannot produce person who is alive

52. If any such guardian, trustee, husband or other person holding or having any estate or interest determinable upon the life of any other person shows to the satisfaction of the court that he has used his utmost endeavour to procure such minor, married woman or other person on whose life such estate or interest depends to appear in court or elsewhere according to the order, and that he cannot procure or compel such appearance, and that such minor, married woman or other person is living or was living at the time such return was made and filed, the court may order that such person may continue in the possession of such estate and receive the rents and profits thereof during the infancy of such minor and the life of any other person on whose life such estate or interest next depends as fully as he might have done if this section and sections 49, 50 and 51 had not been enacted. R.S.O. 1950, c. 68, s. 51.

Guardians, trustees, etc., holding over without consent of remainderman, etc., deemed trespassers

53. Every person having an estate or interest in land determinable upon a life and the guardian or trustee for a minor having such an estate who, after the determination of such particular estate or interest, without the express consent of the person who is next and immediately entitled upon and after the determination of such particular estate or interest, holds over and continues in possession of any land, shall be deemed a trespasser, and every person entitled to any such land upon and after the determination of such particular estate or interest may recover in damages against every such person so holding over the full value of the profits received during such wrongful possession. R.S.O. 1950, c. 68, s. 52.

Assignments of debts and choses in action

54.—(1) Any absolute assignment made on or after the 31st day of December, 1897, by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action is effectual in law, subject to all equities that would have been entitled to priority over the right of the assignee if this section had not been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor.

Where several claimants under assignment

(2) In the case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that such assign-

ment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he is entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he thinks fit, pay the same into the Supreme Court under and in conformity with the provisions of law for the relief of trustees. R.S.O. 1950, c. 68, s. 53.

55.—(1) The bonds or debentures of a corporation made payable to bearer, or to a person named therein or bearer, may be transferred by delivery, and if payable to a person or order, after general endorsement thereof by such person, are transferable by delivery. Bonds and debentures of corporations

(2) Any such transfer vests the property in the bond or debenture in the holder thereof and enables him to maintain an action thereon in his own name. R.S.O. 1950, c. 68, s. 54. Rights of holder

56. Unless in the particulars or conditions of sale by auction of land it is stated that the land will be sold subject to a reserved price or to a right of the seller to bid, the sale shall be deemed to be without reserve. R.S.O. 1950, c. 68, s. 55. Auctions of estates when sale deemed without reserve

57. Upon a sale of land by auction, without reserve, it is not lawful for a seller or for a puffer to bid at the sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R.S.O. 1950, c. 68, s. 56. Prohibition against seller bidding

58. Upon a sale of land by auction, subject to a right of the seller to bid, it is lawful for the seller or any one puffer to bid at the auction in such manner as the seller thinks proper. R.S.O. 1950, c. 68, s. 57. When seller may bid

59. Nothing in sections 56, 57 and 58 authorizes a seller to become the purchaser at the sale. R.S.O. 1950, c. 68, s. 58. Seller not authorized to purchase

60. If a seller or mortgagor of property or his solicitor or agent conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent to defraud, such seller, mortgagor, solicitor or agent, irrespective of any criminal liability he may thereby incur, is liable at the suit of the purchaser or mortgagee or those claiming under him for any loss sustained by them or either or any of them in consequence of the settlement, deed, will or other instrument or encumbrance so concealed, or of any claim made by Liability of vendor or mortgagor for fraudulent concealment of deeds, etc., or falsifying pedigree

any person under such pedigree whose right was so concealed by the falsification of such pedigree, and, in the case of land, in estimating such damages where the property is recovered from such purchaser or mortgagee or from those claiming under him, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. R.S.O. 1950, c. 68, s. 59.

Orders of
court,
effect

61. An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service. R.S.O. 1950, c. 68, s. 60.

Restrictive
covenants,
modification
or discharge
of

62.—(1) Where there is annexed to land a condition or covenant that the land or a specified part of it is not to be built on or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land, any such condition or covenant may be modified or discharged by order of a judge of the Supreme Court or of the judge of the county or district court of the county or district in which the land or any part of it is situate. R.S.O. 1950, c. 68, s. 61 (1); 1952, c. 12, s. 2 (1).

Removal of
proceedings
into
Supreme
Court

(2) Where an application under subsection 1 is made to the judge of a county or district court; a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission
of proceed-
ings

(3) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of
proceedings

(4) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings shall *ipso facto* be removed into the Supreme Court. 1952, c. 12, s. 2 (2).

Notice of
application

(5) Before making any such order, the judge shall cause notice of the application to be given to such persons as appear to him to be interested in the relief sought, either by personal service, advertisement or by registered mail as he directs.

(6) An appeal lies to the Court of Appeal from the decision Appeal of a judge under subsection 1. R.S.O. 1950, c. 68, s. 61 (2, 3).

(7) Nothing in this section applies to building restrictions Exception imposed by a by-law passed under *The Municipal Act* R.S.O. 1960, cc. 249, 296 or *The Planning Act*. R.S.O. 1950, c. 68, s. 61 (4), amended.

63.—(1) In this section,

Interpre-
tation

- (a) “employee” means an employee or former employee who is participating in a plan;
- (b) “employer” includes the trustee under a plan;
- (c) “plan” means an employee pension, retirement, welfare or profit-sharing fund or plan.

(2) Where in accordance with the terms of a plan an employee has designated a person or persons to receive a benefit payable under the plan in the event of the employee's death,

Appoint-
ments of
beneficiaries
under em-
ployee bene-
fit plans
validated

- (a) the employer is discharged upon paying to such person or persons the amount of the benefit;
- (b) such person or persons may upon the death of the employee enforce payment of the benefit, but the employer is entitled to set up any defence that he could have set up against the employee or his personal representatives.

(3) An employee may from time to time alter or revoke a designation made under a plan, but any such alteration or revocation may be made only in the manner set forth in the plan.

Change of
designation

(4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies. 1954, c. 12, s. 1, part.

Application
R.S.O. 1960,
c. 190

64. The rules of law and statutory enactments relating to perpetuities and to accumulations do not apply and shall be deemed never to have applied to the trusts of a plan, trust or fund established for the purpose of providing pensions, retirement allowances, annuities, or sickness, death or other benefits to employees or to their widows, dependants or other beneficiaries. 1954, c. 12, s. 1, part.

Rules as to
perpetuities
and accumu-
lations not
applicable to
employee
benefit
trusts

CHAPTER 67

The Co-operative Loans Act**1.** In this Act,Interpre-
tation

- (a) "Board" means The Co-operative Loans Board of Ontario;
- (b) "co-operative association" means a co-operative corporation of producers of farm products to which Part V of *The Corporations Act* applies and which was incorporated for the purpose of grading, cleaning, packing, storing, drying, processing or marketing farm products; R.S.O. 1960, c. 71
- (c) "farm products" includes animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco and such articles of food or drink manufactured or derived in whole or in part from any such product and such other natural products of agriculture as are designated by the regulations;
- (d) "Minister" means the Minister of Agriculture;
- (e) "regulations" means the regulations made under this Act;
- (f) "Treasurer" means the Treasurer of Ontario. 1956, c. 11, s. 1.

2.—(1) The Co-operative Loans Board of Ontario, a corporation without share capital that was constituted on behalf of Her Majesty in right of Ontario by *The Co-operative Loans Act, 1956*, is continued. 1956, c. 11, s. 2 (1) *amended*. continued

(2) The Board shall be composed of such three persons in the public service of Ontario as the Lieutenant Governor in Council appoints. Composition

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one as vice-chairman of the Board. Chairman, vice-chairman

- Vacancies (4) The Lieutenant Governor in Council may from time to time fill any vacancy in the membership of the Board.
- Quorum (5) A majority of the members of the Board constitutes a quorum.
- Staff (6) The staff of the Board may consist of a secretary and such other officers and servants as are appointed from time to time under *The Public Service Act* for the purposes of the Board.
- R.S.O. 1960, c. 331
- Assistance (7) In the administration of its affairs the Board may be assisted by such persons in the public service of Ontario as the Treasurer assigns for the purpose.
- By-laws (8) Subject to the approval of the Lieutenant Governor in Council, the Board may make by-laws for the conduct of its affairs.
- Annual report (9) The Board shall make a report annually to the Minister of all loans made during the previous year and of such other matters relating to the work of the Board as the Minister requires.
- Idem (10) A copy of the report shall be filed with the Provincial Secretary, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1956, c. 11, s. 2 (2-10).
- Conditions of loan **3.** No loan shall be made to a co-operative association unless an agreement is entered into by the co-operative association and the Minister in the form prescribed by the regulations providing such limitations and conditions as will ensure that the control of the management and operation of the co-operative association will remain in the producers until the loan is repaid. 1956, c. 11, s. 3.
- Power to make loans **4.—(1)** The Lieutenant Governor in Council may make a loan to any co-operative association to enable it to carry out its objects to an amount not exceeding 50 per cent of the value of the real property of the co-operative association on which the loan is to be made, but in no case to exceed the sum of \$100,000.
- Application (2) A loan shall be made to a co-operative association only on its application to the Board in the form prescribed by the regulations. 1956, c. 11, s. 4.

5.—(1) Every loan shall be secured by a first mortgage ^{Security for loan} on the real property of the co-operative association made in favour of the Treasurer in accordance with *The Short Forms of Mortgages Act*. ^{R.S.O. 1960, c. 374}

(2) Every mortgage may contain such covenants, provisions and conditions as the Treasurer deems proper, and the Treasurer has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act that a mortgagee has and may exercise under the laws of Ontario. ^{Rights and powers of Treasurer}

(3) All notices, mortgages, discharges and other documents that may be made under this Act, except an agreement made with the Minister, shall be prepared by a person designated by the Treasurer. ^{Preparation of documents}

(4) In addition to the security required by subsection 1, every loan may be further secured at the time the loan is made by a chattel mortgage to the Treasurer on such chattels of the co-operative association as the Board determines. 1956, c. 11, s. 5. ^{Additional security}

6.—(1) The rate of interest payable on a loan under this Act shall be determined by the Lieutenant Governor in Council at the time the loan is made. ^{Rate of interest}

(2) Repayment of a loan shall be commenced not later than one year from the date of the making of the loan and the terms of repayment shall provide that at least 50 per cent of the principal will be repaid within ten years and that the remaining 50 per cent will be repaid within twenty years from such date, and every agreement shall contain provisions to ensure such repayment. ^{Repayment of loan}

(3) Subject to subsection 2, any part of the principal outstanding may be repaid at any time at the option of the co-operative association. 1956, c. 11, s. 6. ^{Acceleration}

7. Every co-operative association that has a loan under this Act shall make such annual or other reports, returns and statements to the Board as the regulations prescribe. 1956, c. 11, s. 7. ^{Returns}

8. Every co-operative association that has a loan under this Act shall by notice, given to the Board in the same manner as notice of meetings is given to its members or shareholders, inform the Board of the time and place of every meeting of its members or shareholders and the Board or its representative may attend any such meeting. 1956, c. 11, s. 8. ^{Notice of meeting}

Board may
require
meeting

9. If required by the Board, the board of directors of a co-operative association that has a loan under this Act shall call a meeting of its directors or members or shareholders at such time and place as the Board directs for the purpose of inquiring into its affairs. 1956, c. 11, s. 9.

Inspection
of books, etc.

10.—(1) The Treasurer may appoint a person to inspect the books, accounts and property of any co-operative association that has a loan under this Act and may empower such person to summon witnesses and enforce the production of documents before him and take evidence upon oath.

Idem

(2) The Board may inspect the property of any co-operative association that has a loan under this Act and may order such alterations or repairs to be made to such property for the purpose of better securing the loan. 1956, c. 11, s. 10.

Extension
of Act

11. The Lieutenant Governor in Council may extend the application of this Act to any corporation for the purpose of enabling it to provide cold storage facilities for the producers of farm products if more than 50 per cent of the issued shares of its capital stock is held by producers of farm products, and in any such case the corporation shall be deemed to be a co-operative association for the purposes of this Act. 1956, c. 11, s. 11.

Guarantee
of loans

12.—(1) The Lieutenant Governor in Council may upon such terms as he deems proper agree to guarantee and may guarantee the payment of any loan and the interest thereon made to a co-operative association, and the form and manner of the guarantee shall be such as the Lieutenant Governor in Council approves, and the guarantee shall be signed by the Treasurer or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, the Province of Ontario is liable for the payment of the loan and interest thereon guaranteed according to the terms of the guarantee, and the Lieutenant Governor in Council may make arrangements for supplying the money necessary to fulfil the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province, and any guarantee so signed is conclusive evidence that the terms of this section have been complied with.¹

Application
of ss. 3, 4, 5,
7-10

(2) Sections 3, 5, 7, 8, 9 and 10 relating to loans apply *mutatis mutandis* to guarantees made under this section. 1956, c. 11, s. 12.

13. Every subsisting loan and guarantee of bank loan made under a predecessor of this Act shall be deemed to have been made under this Act. 1956, c. 11, s. 13. ^{Existing loans and guarantees}

14. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (*a*) designating any article of food or drink manufactured or derived in whole or in part from a farm product and any natural product of agriculture to be a farm product;
 - (*b*) prescribing the annual or other reports, returns and statements that co-operative associations that have loans under this Act shall make to the Board;
 - (*c*) prescribing forms and providing for their use;
 - (*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1956, c. 11, s. 14, *amended*.
-

CHAPTER 68

The Cornea Transplant Act

1. In this Act, “person lawfully in possession of the body”^{Interpretation} does not include,

- (a) a coroner in possession of a body for the purpose of investigation; or
- (b) an embalmer or funeral director in possession of a body for the purpose of its burial, cremation or other disposition. 1960, c. 12, s. 1.

2. Where a person, either in writing at any time or orally in the presence of at least two witnesses during his last illness, has requested that his eyes be used after his death for the purpose of improving or restoring the sight of a living person and he dies in a hospital, the administrative head of the hospital, or the person acting in that capacity, may authorize the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for that purpose. 1960, c. 12, s. 2.

3. Where a person, either in writing at any time or orally in the presence of at least two witnesses during his last illness, has requested that his eyes be used after his death for the purpose of improving or restoring the sight of a living person and he dies in a place other than a hospital, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters or, if none, the person lawfully in possession of the body of the deceased person may authorize the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for that purpose. 1960, c. 12, s. 3.

4. Where a person has not made a request under section 2 or 3 and dies either in or outside a hospital, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters or, if none, the person lawfully in possession of the body of the deceased person may authorize the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for the purpose of improving or restoring the sight of a living person. 1960, c. 12, s. 4.

Authority
sufficient

5. An authority given under section 2, 3 or 4 is sufficient warrant for the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for the purpose of improving or restoring the sight of a living person. 1960, c. 12, s. 5.

Exception

6.—(1) An authority shall not be given under section 2 or 3 if the person empowered to give the authority has reason to believe that the person who made the request subsequently withdrew it.

Idem

(2) An authority shall not be given under section 4 if the person empowered to give the authority has reason to believe that the deceased person would, if living, have objected thereto. 1960, c. 12, s. 6.

Idem

(3) An authority shall not be given under section 2, 3 or 4 if the person empowered to give the authority has reason to believe that an inquest may be required to be held on the body of the deceased. 1960, c. 12, s. 7.

Lawful
dealings
not
affected

7. Nothing in this Act makes unlawful any dealing with the body of a deceased person that would be lawful if this Act had not been passed. 1960, c. 12, s. 8.

CHAPTER 69

The Coroners Act

1. The Lieutenant Governor in Council may appoint one ^{Coroners,} or more coroners for any municipality or provisional judicial ^{appoint-} district. R.S.O. 1950, c. 70, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint ^{Supervising} a coroner for Ontario, to be known as supervising coroner, ^{coroner,} who shall act in an advisory capacity to coroners and who ^{appoint-} shall have such other powers and perform such other duties as the regulations prescribe.

(2) In lieu of fees the supervising coroner shall be paid out ^{salary} of the Consolidated Revenue Fund such salary as the Lieutenant Governor in Council fixes. R.S.O. 1950, c. 70, s. 2.

3.—(1) The Lieutenant Governor in Council may appoint ^{Chief} a coroner, to be known as chief coroner, for any city having ^{coroners,} a population of more than 100,000, who shall have control ^{appoint-} over the coroners for the city and who shall have such other powers and perform such other duties as the regulations prescribe. R.S.O. 1950, c. 70, s. 3 (1).

(2) In lieu of fees every chief coroner shall be paid half- ^{salaries} yearly by the corporation of the city such salary as the Lieutenant Governor in Council fixes. R.S.O. 1950, c. 70, s. 3 (2); 1957, c. 14, s. 1.

(3) Where the chief coroner of a city is also the supervising ^{secretary} coroner and the corporation of the city has appointed or appoints a secretary for him, the corporation shall be reimbursed quarterly out of the Consolidated Revenue Fund to the extent of one-third of the salary of such secretary and one-third of the amount, if any, paid by the corporation under the civic pension fund or plan in respect of such secretary. 1954, c. 13, s. 1, *amended*.

(4) The corporation of a city may appoint one or more ^{technicians} persons as technicians to assist the coroners for the city in the performance of their duties. 1958, c. 13, s. 1.

Appoint-
ments to
be filed

4. A certified copy of the order appointing a coroner shall be sent by the Inspector of Legal Offices to the clerk of the peace of the county or district in which the coroner is to act, and shall be filed by him in his office. R.S.O. 1950, c. 70, s. 4.

Extended
jurisdiction

5. The Attorney General may in writing direct any coroner to act in any designated municipality or provisional judicial district in addition to the municipality or district for which he was appointed, and a coroner to whom such direction is given has the same powers and shall perform the same duties in the designated municipality or district as a coroner appointed for the designated municipality or district. R.S.O. 1950, c. 70, s. 5.

Where
magistrates
may act

6. The Attorney General or the Crown attorney for the district may in writing direct any magistrate in a provisional judicial district to act as a coroner for the district, and a magistrate to whom such direction is given has the same powers and shall perform the same duties in the district as a coroner appointed for the district. R.S.O. 1950, c. 70, s. 6.

Duty to
give infor-
mation to
coroner

7.—(1) Every practitioner, funeral director, embalmer and every person occupying a house in which a deceased person was residing who has reason to believe that the deceased person died as a result of violence or misadventure or by unfair means or as a result of negligence or misconduct or malpractice on the part of others or from any cause other than disease or under such circumstances as may require investigation shall immediately notify a coroner having jurisdiction in the place where the body of the deceased person is of the facts and circumstances relating to the death.

Where no
medical
attendant

(2) The notice required by subsection 1 shall be given in every case where the practitioner, funeral director, embalmer or occupant is aware that the deceased had been suffering from disease or sickness and had not been treated or attended by a legally qualified medical practitioner. R.S.O. 1950, c. 70, s. 7.

No embalm-
ing, etc.,
of body

8. Where there is reason to believe that a person died in any of the circumstances mentioned in section 7, the body of the deceased shall not be embalmed or cremated and no chemical shall be applied to it externally or internally and no alteration of any kind shall be made to it until the coroner so directs. R.S.O. 1950, c. 70, s. 8.

Offence

9. Every person who contravenes section 7 or 8 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or both. R.S.O. 1950, c. 70, s. 9.

10.—(1) Where a coroner is informed that there is in his jurisdiction the body of a person and that there is reason to believe that the person died in any of the circumstances mentioned in section 7, he shall issue his warrant to take possession of the body and shall view the body and make such further investigation as is required to enable him to determine whether or not an inquest is necessary. Warrant for possession of body; investigation

(2) The coroner may, with the consent of the Crown attorney, employ experts to assist him in the investigation. Experts

(3) After the issue of the warrant no other coroner shall issue a warrant or interfere in the case, except under the instructions of the Attorney General or the Crown attorney. Jurisdiction
R.S.O. 1950, c. 70, s. 10, *amended*.

11.—(1) Where a death occurs at a place that is difficult for the coroner who has issued his warrant to take possession of the body to attend, he may, with the consent of the Crown attorney, authorize and direct a legally qualified medical practitioner, magistrate or member of the Ontario Provincial Police Force to take possession of the body, view the body and make such further investigation as is required to enable the coroner to determine whether or not an inquest is necessary and to report to him. Where death occurs in inaccessible place

(2) Upon receipt of the report the coroner shall proceed as if he himself had viewed the body and made the investigation. Coroner to decide if inquest necessary
R.S.O. 1950, c. 70, s. 11.

12.—(1) Where the coroner determines that an inquest is unnecessary, he shall issue his warrant to bury the body, and shall forthwith transmit to the Crown attorney a statutory declaration setting forth briefly the result of the investigation and the grounds on which the warrant has been issued, and shall also forthwith transmit to the division registrar a notice of the death in the form prescribed by *The Vital Statistics Act*. Warrant for burial where inquest unnecessary
R.S.O. 1960, c. 419

(2) Notwithstanding that the matters mentioned in subsection 1 have taken place, the Attorney General or the Crown attorney may direct the coroner who determined that an inquest was unnecessary, or some other coroner, to hold an inquest upon the body, and the coroner to whom the direction is given shall forthwith issue his warrant for an inquest and hold it accordingly. R.S.O. 1950, c. 70, s. 12. Crown may direct inquest

Warrant for
inquest

13. Where the coroner determines that an inquest is necessary, he shall issue his warrant for an inquest, and shall forthwith transmit to the Crown attorney a statutory declaration setting forth briefly the result of the investigation and the grounds upon which he determined that an inquest should be held. R.S.O. 1950, c. 70, s. 13.

Authority
to hold
inquest

14. No inquest shall be held unless the Attorney General, the Crown attorney or the supervising coroner directs the holding thereof or consents thereto or unless the holding of the inquest is required by this or any other Act of the Legislature or by any Act of the Parliament of Canada. R.S.O. 1950, c. 70, s. 14.

Death due
to events
occurring
beyond
jurisdiction

15. Where a coroner has issued his warrant to take possession of a body in his jurisdiction and it appears that the death resulted from any of the circumstances mentioned in section 7 and that such circumstances occurred at a place beyond his jurisdiction, he shall take possession of the body and shall view the body and make such further investigation as is required to enable him to determine whether or not an inquest is necessary, and, where he determines that an inquest is necessary, he may, with the consent of the Crown attorney, at any time during the course of the proceedings, transfer the inquest to a coroner having jurisdiction at such place and the inquest shall be conducted by such coroner as though the body were in his jurisdiction and he had issued the warrant, but the coroner issuing the warrant may take evidence to prove the fact of death, the identity of the body and the *post mortem* examination of the body, and such evidence shall be transmitted to and received by the coroner holding the inquest as part of the proceedings before him. R.S.O. 1950, c. 70, s. 15.

Where body
destroyed
or removed
from
Ontario

16. Where a coroner has reason to believe that a death has occurred in circumstances that warrant the holding of an inquest but, owing to the destruction of the body in whole or in part or to the fact that the body is lying in a place from which it cannot be recovered, or that the body has been removed from Ontario, an inquest cannot be held except by virtue of this section, he shall report the facts to the Attorney General who may direct an inquest to be held touching the death, in which case an inquest shall be held by the coroner making the report or by such other coroner as the Attorney General directs, and the law relating to coroners and coroners' inquests applies with such modifications as are necessary in consequence of the inquest being held otherwise than on or after a view of the body. R.S.O. 1950, c. 70, s. 16.

17. Where the Attorney General has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, he may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this Act, whether or not his commission extends to the place where the death occurred or where the body is located and whether or not he or any other coroner has viewed the body, made an investigation, held an inquest or done any other act in connection with the death. R.S.O. 1950, c. 70, s. 17.

Attorney General may direct coroner to hold inquest

18.—(1) Where a person is charged with a criminal offence arising out of a death, an inquest touching the death shall be held only upon the direction of the Attorney General.

Where criminal offence charged

(2) Where during an inquest a person is charged with a criminal offence arising out of the death, the coroner shall discharge the jury and close the inquest, and shall then proceed as if he had determined that an inquest was unnecessary, but the Attorney General may direct that the inquest be reopened. R.S.O. 1950, c. 70, s. 18.

Idem

19.—(1) No coroner shall conduct an inquest upon the body of a person whose death has occurred on a railway or at a mine or other work that he owns in whole or in part or that is owned or operated by a company in which he is a shareholder, or in respect of which he is employed as medical attendant, or in any other capacity by the owner thereof, or under any agreement or understanding, direct or indirect, with the employees thereof.

When coroner disqualified

(2) Where a coroner conducts an inquest in contravention of this section, he shall incur a penalty of not less than \$100 and not more than \$500, to be sued for and recovered by any person in any court of competent jurisdiction.

Penalty for contravention

(3) It is sufficient for the plaintiff in any such action to allege that the defendant is indebted to him in the sum claimed and the particular inquest for which the action is brought and that the defendant has acted in contravention of this section.

Form of claim for penalty

(4) The action shall be commenced within one year after the inquest was held and shall be tried by a judge without a jury. R.S.O. 1950, c. 70, s. 19.

Limitation

20.—(1) Where a coroner has ordered an inquest upon the body of a person who has met death by violence in a wreck, the coroner may take charge of the wreckage and place one

Power of coroner to take charge of wreckage

or more constables in charge of it so as to prevent persons from disturbing it until the jury at the inquest has viewed it, or the coroner has made such examination as he deems necessary.

View to be expedited

(2) The jury or coroner, as the case may be, shall view the wreckage at the earliest moment possible. R.S.O. 1950, c. 70, s. 20.

Death of inmate in home for the aged or of patient in mental hospital
R.S.O. 1960, c. 174
R.S.O. 1960, c. 236

21. Where,

- (a) an inmate in a home for the aged to which *The Homes for the Aged Act* applies dies; or
- (b) a patient in an institution to which *The Mental Hospitals Act* applies dies,

the officer in charge shall immediately give notice of the death to a coroner and the coroner shall investigate the circumstances of the death and, if as a result of the investigation he is of opinion that an inquest ought to be held, he shall issue his warrant and hold an inquest upon the body. 1959, c. 19, s. 1, *part*.

Death of prisoner in reformatory, etc.

22. Where a prisoner in a reformatory, industrial farm, training school, jail or lock-up dies, the officer in charge shall immediately give notice of the death to a coroner and the coroner shall issue his warrant and hold an inquest upon the body. 1959, c. 19, s. 1, *part*.

Post mortem examinations and analyses

23. A coroner may at any time during an investigation or inquest issue his warrant to a legally qualified medical practitioner to conduct a *post mortem* examination of the body, an analysis of the blood, urine, or the contents of the stomach and intestines, or such other examination or analysis as the circumstances warrant, but, if he determines that an inquest is unnecessary, he shall not thereafter issue his warrant for a *post mortem* examination or analysis without the consent in writing of the Attorney General, the Crown attorney or the supervising coroner. 1951, c. 15, s. 1.

Notice to Crown attorney

24.—(1) Every coroner before holding an inquest shall notify the Crown attorney of the time and place at which it is to be held and the Crown attorney may, and if directed by the Attorney General shall, attend the inquest and may examine or cross-examine the witnesses.

Special counsel

(2) The Attorney General may be represented at an inquest by counsel in addition to or in lieu of the Crown attorney,

and such counsel has the same powers as the Crown attorney under subsection 1. R.S.O. 1950, c. 70, s. 24.

25.—(1) The coroner shall summon such persons to attend ^{Witnesses} an inquest as he deems advisable or as are directed by the Crown attorney or the counsel for the Attorney General.

(2) In addition to the other powers that he possesses, a ^{Powers of coroners re witnesses} coroner has the same power to issue summonses to witnesses, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the Supreme Court.

(3) A fine imposed for non-attendance or refusal to give ^{Fine for non-attendance} evidence shall not, in the case of a medical practitioner, exceed \$40, and in the case of any other witness shall not exceed \$10.

(4) A witness shall be deemed to have objected to answer ^{Answer not receivable against witness} any question upon the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown, or of any person, and the answer so given shall not be used or be receivable in evidence against him in any trial or other proceeding against him thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1950, c. 70, s. 25.

26.—(1) The number of jurors to be summoned to serve ^{Juries} on an inquest shall be five and, where fewer than five of the jurors so summoned appear at the time and place appointed for the inquest, the coroner may direct a constable to name and appoint so many persons then present or who can be found as will make up a jury of five. R.S.O. 1950, c. 70, s. 26 (1); 1951, c. 15, s. 2.

(2) Where a person duly summoned to serve as a juror does ^{Penalty for non-attendance} not attend, the coroner may impose upon him a fine of not more than \$20.

(3) Where an inquest is held in a provisional judicial dis- ^{Inquest without jury in district} trict, the coroner, with the consent in writing of the Crown attorney, may hold the inquest without a jury. R.S.O. 1950, c. 70, s. 26 (2, 3).

27. A person shall not serve as a juror at an inquest ^{Qualification of jurors} unless he is named in the voters' list of the municipality and marked therein as qualified to serve as a juror, nor shall a person who has acted as a juror at an inquest act in a similar capacity within one year thereafter. R.S.O. 1950, c. 70, s. 27.

Disquali-
fication

28. An officer, employee or inmate of a home for the aged, hospital, mental hospital, charitable institution, jail, reformatory, industrial farm or lock-up shall not serve as a juror at an inquest upon the body of a person who died therein. R.S.O. 1950, c. 70, s. 28.

View of
body may be
dispensed
with

29. It is not necessary for a jury to view the body upon which an inquest is being held if the coroner, with the consent in writing of the Crown attorney, directs that the viewing of the body be dispensed with. R.S.O. 1950, c. 70, s. 29.

Majority

30. A verdict or finding may be returned by a majority of the jurors sworn. R.S.O. 1950, c. 70, s. 30.

Service of
summonses

31. A summons to a juror or to a witness may be served by personal service or by sending it by registered mail addressed to the usual place of abode of the person summoned. R.S.O. 1950, c. 70, s. 31.

Taking
evidence in
shorthand

32.—(1) The evidence upon an inquest or any part of it, with the consent in writing of the Crown attorney, may be taken in shorthand by a stenographer who may be appointed by the coroner, and who before acting shall make oath that he will truly and faithfully report the evidence, and, where evidence is so taken, it is not necessary that it be read over to or signed by the witness, but it is sufficient if the transcript is signed by the coroner and is accompanied by an affidavit of the stenographer that it is a true report of the evidence.

Transcrip-
tion of
evidence

(2) It is not necessary to transcribe the evidence taken by a stenographer unless the Attorney General or Crown attorney orders it to be done or unless any other person requests a copy of the transcript and pays to the stenographer the fees therefor. R.S.O. 1950, c. 70, s. 32.

Inter-
preters

33. A coroner may, and if required by the Crown attorney shall, employ a person to act as interpreter at an inquest, and such person may be summoned to attend the inquest and before acting shall make oath that he will truly and faithfully translate the evidence. R.S.O. 1950, c. 70, s. 33.

Constables

34. A coroner may appoint such persons as constables as he deems necessary for the purpose of assisting him in an inquest, and, before acting, every such constable shall make oath that he will faithfully perform his duties. R.S.O. 1950, c. 70, s. 34.

Return of
inquisition

35. The coroner shall forthwith, after an inquest, return the verdict or finding and every recognizance taken before

him, with the evidence where the Attorney General or Crown attorney has ordered it to be transcribed, and the exhibits, to the Crown attorney. R.S.O. 1950, c. 70, s. 35.

36.—(1) Stationery, forms and postage for coroners shall ^{Stationery, etc.} be provided, in the case of a coroner appointed for a municipality, by the municipality or, in the case of a coroner appointed for a provisional judicial district, by the Province.

(2) Every county, city, separated town and provisional ^{Accommodation} judicial district shall provide,

(a) a suitable place for holding *post mortem* examinations; and

(b) a suitable place for holding inquests.

(3) If a suitable place for holding *post mortem* examinations ^{Idem} and a suitable place for holding inquests are not provided as required by subsection 2, the coroner may procure such a place or places and the cost thereof, when certified by the coroner and approved by the Crown attorney, shall be paid by the treasurer of the county, city, separated town or provisional judicial district that failed to comply with subsection 2. 1955, c. 8, s. 1.

37.—(1) Coroners' fees and allowances for holding investi- ^{Fees, coroners'} gations and inquests shall be those set out in Schedule A, but, where the Attorney General is of opinion that the prescribed fees are insufficient having regard to the special circumstances of any investigation or inquest, he may approve a larger fee to any coroner. R.S.O. 1950, c. 70, s. 37 (1); 1951, c. 15, s. 3.

(2) Crown attorneys' fees and expenses for attending in- ^{Crown attorneys'} ^{R.S.O. 1960, c. 5} quests shall be those set out in *The Administration of Justice Expenses Act*.

(3) Constables' fees and mileage allowances for services ^{constables'} rendered in connection with an inquest shall be those set out in *The Administration of Justice Expenses Act*. R.S.O. 1950, c. 70, s. 37 (2, 3).

(4) Jurors' fees and mileage allowances for attending ^{jurors'} inquests shall be those set out in Schedule B.

(5) Witnesses' fees, mileage allowances and amounts for ^{witnesses'} living expenses in connection with inquests shall be those set out in Schedule C. 1957, c. 14, s. 2 (1).

steno-
graphers'

R.S.O. 1960,
c. 77

(6) Stenographers' fees for services rendered in connection with an inquest shall be upon the scale appointed for shorthand writers under *The County Judges Act*, and when certified by the coroner shall be paid in the same way as witness fees.

inter-
preters'

(7) Interpreters' fees for services rendered at an inquest shall be such as are deemed reasonable by the Crown attorney and when certified by the coroner shall be paid in the same way as witness fees. R.S.O. 1950, c. 70, s. 37 (5, 6).

post mortem
examina-
tions, etc.

(8) The fees and mileage allowances in connection with *post mortem* examinations and analyses shall be those set out in Schedule D. 1957, c. 14, s. 2 (2).

Coroners'
accounts

38.—(1) The coroner shall render the account for his fee and allowances for holding an investigation or inquest to the treasurer of the county in which the investigation or inquest was held, or, where the investigation or inquest was held in a provisional judicial district, to the treasurer of the district, and, when the account has been audited by the county board of audit, if any, or, where the investigation or inquest was held in a provisional judicial district, by the Auditor of Criminal Justice Accounts, the treasurer of the county or provisional judicial district, as the case may be, shall pay the amount specified therein. 1955, c. 8, s. 2, *part, amended*.

Crown
attorneys'
and
constables'
accounts

(2) The Crown attorney's account for his fee and expenses for attending an inquest and a constable's account for his fee and travelling expenses for services performed in connection with an inquest shall be rendered and paid in the manner provided in *The Administration of Justice Expenses Act*.

R.S.O. 1960,
c. 5

Witnesses',
jurors',
steno-
graphers'
and inter-
preters'
accounts

(3) The coroner shall give to every witness and juror entitled to a fee and mileage allowance in connection with an inquest and to every stenographer and interpreter entitled to a fee an order on the treasurer of the county, city or separated town in which the inquest was held, or, where the inquest was held in a provisional judicial district outside a city, on the treasurer of the district, for the payment of the amount of the fee and mileage allowance, if any, specified in the order and, upon presentation of the order, the treasurer, if satisfied as to the correctness thereof, shall pay the amount in accordance therewith.

Post mortem
examination
accounts

(4) A legally qualified medical practitioner shall render his account for his fee for a *post mortem* examination or analysis under Schedule C to the treasurer of the county, city or separated town in which the investigation or inquest was held, or, where the investigation or inquest was held in a

provisional judicial district outside a city, to the treasurer of the district, and if the amount has been approved by the coroner and, where it has been determined that an inquest is unnecessary, approved also by the Attorney General, the Crown attorney or the supervising coroner, the treasurer of the county, city, separated town or provisional judicial district, as the case may be, shall pay the amount specified therein. 1955, c. 8, s. 2, *part*.

39. The expenses paid by a county in connection with a coroner's investigation or inquest into a death in an institution to which *The Mental Hospitals Act* applies or in a reformatory, industrial farm or training school administered by the Department of Reform Institutions shall, when the accounts therefor have been audited by the Auditor of Criminal Justice Accounts, be reimbursed to the treasurer of the county out of the moneys appropriated by the Legislature for the expenses of the administration of justice. 1959, c. 19, s. 2.

Reimbursement of counties, deaths in provincial institutions
R.S.O. 1960, c. 236

40. Where an investigation or inquest is held by a coroner and it is found that the cause of death did not arise in the county, city, separated town or provisional judicial district in which the investigation or inquest was held, the amounts of the fees and allowances that were paid in the first instance by the treasurer of such county, city, separated town or provisional judicial district shall be paid to him on the certificate of the coroner by the treasurer of the county, city, separated town or provisional judicial district in which it was found that the cause of death arose. 1955, c. 8, s. 2, *part*.

Provision for payment over

41. Where a fine is imposed by a coroner under this Act, it is payable forthwith, and, if it is not so paid, the coroner may commit the person so failing to pay to jail for a period of not more than ten days. R.S.O. 1950, c. 70, s. 42.

Payment of fines

42. In proceedings under this Act it is not necessary for a person to affix a seal to a document, and no document is invalidated by reason of the lack of a seal, even though the document purports to be sealed. R.S.O. 1950, c. 70, s. 43.

Seals not necessary

43. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the powers and duties of the supervising coroner;
- (b) prescribing the powers and duties of chief coroners;
- (c) prescribing forms and providing for their use. R.S.O. 1950, c. 70, s. 44, *amended*.

SCHEDULE A

Coroners

1. For all services in an investigation where no inquest is held... \$10.00
2. For all services where an inquest is held in part. 15.00
3. For all services where an inquest is held and completed..... 25.00
4. For every mile necessarily travelled in connection with an investigation or an inquest..... .10
5. For expenses necessarily incurred in connection with an investigation or inquest, such expense allowance as is approved by the Crown attorney.

1957, c. 14, s. 4, *part.*

SCHEDULE B

Jurors

1. For every day of attendance at the inquest..... \$ 4.00
2. For each mile necessarily travelled between the juror's place of residence and the place where the inquest is held, a mileage allowance of 10 cents a mile each way, but, where the inquest is held in a city in which the juror resides, the mileage allowance is 75 cents.

1957, c. 14, s. 4, *part.*

SCHEDULE C

Witnesses

1. For every day of attendance at the inquest..... \$ 6.00
2. For every day of attendance of a legally qualified medical practitioner as a medical practitioner..... 15.00
3. For every day of attendance of an expert witness, such fee not exceeding \$30 as the coroner deems proper or such greater fee as the Attorney General or the Deputy Attorney General approves.
4. For preparing a plan, furnishing any article or doing any work for use at the inquest, in addition to the fee to which the witness would ordinarily be entitled, such special fee as the coroner deems proper and the Crown attorney approves.
5. Where a witness travels by his own automobile, a mileage allowance of 10 cents a mile each way for each mile necessarily travelled between his place of residence and the place where the inquest is held, but, where the inquest is held in the city in which the witness resides, the mileage allowance is 75 cents.

The distance travelled shall be ascertained by the declaration of the Crown attorney.

6. Where a witness travels by a means other than his own automobile, a sum equal to the amount of the fare actually paid for the transportation from his place of residence to the place where the inquest is held and return.
7. Where a witness is required to attend the inquest on more than one day and returns to his place of residence at night, the travelling allowance mentioned in item 5 or 6, as the case may be, is payable in respect of each day's attendance.
8. Where a witness resides elsewhere and in the opinion of the Crown attorney it is desirable that he remain over-night at the place at which the inquest is held, a sum equal to the amount reasonably and actually paid by him for living expenses, but not more than \$8 for each night.

1959, c. 19, s. 3.

SCHEDULE D

Post Mortem Examinations, etc.

1. For a post mortem examination (including any technical assistance required)..... \$50.00
2. For microscopic sections necessary to prove diagnosis..... 15.00
3. For any other examination or analysis, such fee as is authorized under *The Administration of Justice Expenses Act*.
4. For each mile necessarily travelled in connection with an examination or analysis..... .10

1957, c. 14, s. 4, *part*.

CHAPTER 70

The Corporation Securities Registration Act

1. In this Act,

Interpre-
tation

- (a) “assignment of book debts” includes every legal or equitable assignment by way of security of book debts and every mortgage or other charge upon book debts;
- (b) “assignor” means a corporation that makes an assignment of book debts;
- (c) “book debts” means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
- (d) “chattels” means goods and chattels capable of complete transfer by delivery, and includes, when separately assigned or charged, fixtures and growing crops, but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, or growing crops when assigned with any interest in the land on which they grow, or a ship or vessel registered under the laws of Canada or any share in such ship or vessel, or shares or interests in the stock, funds or securities of a government, or in the capital of a corporation, or book debts or other choses in action; R.S.O. 1950, c. 71, s. 1, cls. *a-d*.
- (e) “corporation” means a corporation wherever or however incorporated; R.S.O. 1950, c. 71, s. 1, cl. *e*, *amended*.
- (f) “creditors” means creditors of the mortgagor or assignor, whether execution creditors or not, who become creditors before the registration of the mortgage, charge or assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the

R.S.C. 1952,
cc. 14, 296

general benefit of creditors, a trustee under the *Bankruptcy Act* (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding up of companies, without regard to the time when the creditor so suing becomes a creditor or when the assignee, trustee or liquidator is appointed;

- (g) "mortgagor" includes a corporation that executes a charge, and "mortgagee" includes a person in whose favour a charge is created;
- (h) "subsequent purchasers or mortgagees" includes a person who obtains, whether by way of purchase, mortgage, charge or assignment, an interest in chattels or book debts that have already been mortgaged, charged or assigned. R.S.O. 1950, c. 71, s. 1, cls. f-h.

Instruments
to be
registered

2.—(1) Every mortgage and every charge, whether specific or floating, of chattels in Ontario created by a corporation, and every assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,

- (a) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation; or
- (b) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing the bonds, debentures or debenture stock of any other corporation; or
- (c) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument,

is void as against creditors of the mortgagor or assignor, and as against subsequent purchasers or mortgagees from or under the mortgagor or assignor, in good faith, for valuable consideration and without notice, unless it is duly registered, and unless, if contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, it complies with subsection 2.

Affidavit of
bona fides

(2) If the mortgage, charge or assignment is contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, the instrument containing it shall be accom-

panied by an affidavit of the mortgagee, trustee, or grantee or one of the mortgagees, trustees or grantees, his or their agent, or, if the mortgagee, trustee or grantee is a corporation, of any officer or agent of the corporation, stating that the instrument containing the mortgage, charge or assignment was executed in good faith and for the purpose of securing payment of the bonds, debentures or debenture stock referred to therein and not for the mere purpose of protecting the chattels or book debts therein mentioned against the creditors of the mortgagor or assignor or preventing such creditors from obtaining payment of any claim against the mortgagor or assignor.

(3) A mortgage, charge or assignment required to be registered under this Act shall, as against creditors and the subsequent purchasers or mortgagees referred to in subsection 1, take effect only from the time of its registration. R.S.O. 1950, c. 71, s. 2. When charge to take effect

3.—(1) Registration of every mortgage, charge or assignment shall, except as provided by subsection 2, be effected by filing with the Provincial Secretary a duplicate original of the instrument containing the mortgage, charge or assignment, together with the affidavit required by subsection 2 of section 2, and an affidavit made by an officer or agent of the mortgagor or assignor stating the date of the execution of the instrument by the mortgagor or assignor, within thirty days from the date of the execution of the instrument. Registration, mode

(2) Registration of every mortgage, charge or assignment, contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, shall be effected by filing with the Provincial Secretary, within thirty days after the execution of the bonds, debentures or debenture stock, an affidavit made by an officer or agent of the mortgagor or assignor, setting forth, Registration when charge in bond, etc.

- (a) the total amount secured by the bonds, debentures or series thereof, or debenture stock;
- (b) a true copy of the bond or debenture or of one bond or debenture of the series or of the debenture stock certificate; and
- (c) the date of execution. R.S.O. 1950, c. 71, s. 3.

4. Any affidavit made for the purposes of this Act by an officer or agent of a corporation shall state that the deponent is aware of the circumstances connected with the transaction and has a personal knowledge of the facts deposed to. R.S.O. 1950, c. 71, s. 4. Affidavit of corporation officer

Time
expiring on
holiday

5. When the time for filing an instrument containing a mortgage, charge or assignment, or an affidavit, expires on a Sunday or other day on which the office of the Provincial Secretary is closed, the filing is, so far as regards the time of filing, valid if made on the next following day on which the office is open. R.S.O. 1950, c. 71, s. 5.

Minutes of
registration

6. The Provincial Secretary shall cause every instrument containing a mortgage, charge or assignment, and every affidavit filed in his office under this Act to be numbered, to be endorsed with a memorandum of the day, hour and minute of its filing and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the mortgage, charge or assignment, the date of execution of the instrument containing the same or of the bonds, debentures or debenture stock not secured by separate instrument, as shown by the affidavit filed, and the date of filing and the amount secured as shown by the instrument or by the affidavit. R.S.O. 1950, c. 71, s. 6.

Rectifica-
tion of
omissions
and mis-
statements

7.—(1) Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, a judge of the Supreme Court, on being satisfied that the omission to file an instrument or affidavit within the time prescribed by this Act or any omission or misstatement in any document filed under this Act was accidental or due to inadvertence or impossibility or other sufficient cause, may, in his discretion, extend the time for registration, or order the omission or misstatement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing, as he thinks fit to direct.

Idem

(2) The order or a copy thereof shall be annexed to the instrument or affidavit or document or copy thereof on file or tendered for filing, and appropriate entries shall be made in the register. R.S.O. 1950, c. 71, s. 7.

Defects
and irregu-
larities

8. No defect or irregularity in the execution of an instrument containing a mortgage, charge or assignment, and no defect, irregularity or omission in an affidavit, and no error of a clerical nature or in an immaterial or non-essential part invalidates or destroys the effect of the mortgage, charge or assignment or the registration thereof, unless, in the opinion of the court or judge before whom a question relating thereto is tried, such defect, irregularity, omission or error has actually misled a person whose interests are affected by the mortgage, charge or assignment. R.S.O. 1950, c. 71, s. 8.

9.—(1) An assignment of a mortgage or of a charge of ^{Assignments} chattels or of an assignment of book debts within this Act need not, but may, be filed with the Provincial Secretary.

(2) A mortgage or charge or assignment of book debts ^{Discharges and partial discharges} registered under this Act may be discharged in whole or in part by filing with the Provincial Secretary a certificate of discharge signed by the mortgagee, trustee, or assignee, his or its executors, administrators, successors or assigns, and, except in the case of a certificate of discharge executed by a corporation under its corporate seal, the certificate shall be accompanied by the affidavit of an attesting witness of the execution thereof, but, in case a mortgage, charge or assignment of book debts has been assigned, no certificate of discharge by an assignee shall be filed until the assignment has been filed.

(3) In the case of a mortgage, charge or assignment con- ^{Discharge when charge on face of securities} tained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, the Provincial Secretary may, on evidence being given to his satisfaction that the debt for which the mortgage, charge or assignment was given as security has been paid or satisfied, enter a memorandum of discharge in the register, and shall, if required, furnish the corporation with a copy thereof.

(4) The Provincial Secretary shall note the fact of such ^{Entry of assignment or discharge} assignment or discharge against each entry in the books of his office respecting the filing of the instrument or affidavit, and shall make a like notation upon that instrument or upon the affidavit filed under subsection 2 of section 3. R.S.O. 1950, c. 71, s. 9.

10.—(1) Upon payment of the prescribed fees, the Pro- ^{Certificate of filing} vincial Secretary shall give a certificate under his hand of the filing of any instrument or affidavit under this Act, and of the day and hour of the filing, and a certificate as to prior registrations, if any, of mortgages, charges or assignments created or made by the mortgagor or assignor.

(2) Every certificate furnished by the Provincial Secretary ^{Evidence} touching any matter dealt with by this Act shall be received for all purposes as *prima facie* proof of the facts set out in the certificate, and every copy of a document filed under this Act, certified by the Provincial Secretary, shall be received as *prima facie* proof for all purposes as if the original document were produced, and also as *prima facie* proof of the execution of the original document according to the purport of such copy.

Proof not
required of
Provincial
Secretary's
signature

(3) No proof shall be required of the signature of the Provincial Secretary in respect of any certificate produced as evidence under this section. R.S.O. 1950, c. 71, s. 10.

Searches

11. Upon payment of the prescribed fees, every person shall have access to and is entitled to inspect the books of the Provincial Secretary containing records or entries of mortgages, charges or assignments or documents registered or filed under this Act, and no person shall be required as a condition of his right thereto to disclose the name of the person in respect of whom such access or inspection is sought, and the Provincial Secretary shall, upon request, accompanied by payment of the prescribed fees, produce for inspection any mortgage, charge, assignment or document so registered or filed. R.S.O. 1950, c. 71, s. 11.

Fees

12. For services under this Act, the Provincial Secretary is entitled to receive such fees as the Lieutenant Governor in Council prescribes. R.S.O. 1950, c. 71, s. 12.

Application
of Act

13. This Act applies only to mortgages or charges of chattels or assignments of book debts executed on or after the 30th day of May, 1932. R.S.O. 1950, c. 71, s. 13.

Charges
created
before
passing
of Act

14. A mortgage or charge of chattels or an assignment of book debts made before the 30th day of May, 1932, which if it had been executed on or after the 30th day of May, 1932, would be within this Act and which was properly registered or filed under any Act respecting the same, shall, notwithstanding anything contained in that Act or any other Act, not be required to be renewed. R.S.O. 1950, c. 71, s. 14.

R.S.O. 1960,
cc. 24, 34
not to apply

15. *The Assignment of Book Debts Act* and *The Bills of Sale and Chattel Mortgages Act* do not apply to a mortgage, charge or assignment whose registration is provided for in this Act. R.S.O. 1950, c. 71, s. 15.

CHAPTER 71

The Corporations Act

1. In this Act,

Interpre-
tation

- (a) “books” includes loose-leaf books where reasonable precautions are taken against the misuse of them;
- (b) “company” means a corporation with share capital;
- (c) “corporation” means a corporation with or without share capital, but in Part III “corporation” means a corporation without share capital;
- (d) “court” means the Supreme Court or the county or district court of the county or district in which the head office of the corporation is situate;
- (e) “officer” means president, chairman of the board of directors, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, manager or any other person designated an officer by by-law of the corporation;
- (f) “private company” means a company as to which by its special Act, letters patent or supplementary letters patent,
 - (i) the right to transfer its shares is restricted,
 - (ii) the number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
 - (iii) any invitation to the public to subscribe for its shares or securities is prohibited;
- (g) “public company” means a company that is not a private company;
- (h) “registers” includes loose-leaf registers where reasonable precautions are taken against the misuse of them;

- (i) "securities" means the bonds, debentures, debenture stock or other like liabilities of a corporation whether constituting a charge on its property or not;
- (j) "special resolution" means a resolution passed by the directors and confirmed with or without variation by at least two-thirds of the votes cast at a general meeting of the shareholders or members of the corporation duly called for that purpose, or, in lieu of such confirmation, by the consent in writing of all the shareholders or members entitled to vote at such meeting. 1953, c. 19, s. 1.

PART I

CORPORATIONS, INCORPORATION AND NAME

Application **2.** This Part, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. 1953, c. 19, s. 2.

R.S.O. 1960,
c. 222

Incorporation by
letters
patent

3.—(1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than three, of twenty-one or more years of age, who apply therefor, constituting them and any others who become shareholders or members of the corporation thereby created a corporation for any of the objects to which the authority of the Legislature extends, except those of railway

and incline railway and street railway corporations and corporations within the meaning of *The Loan and Trust Corporations Act*. 1953, c. 19, s. 3 (1). R.S.O. 1960,
c. 222

(2) Notwithstanding subsection 1, a private company may be incorporated under this Act with power to lend and invest money on mortgage of real estate or otherwise, or with power to accept and execute the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accept the duty of and to act generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of *The Loan and Trust Corporations Act*, but the number of its shareholders shall be limited by its letters patent or supplementary letters patent to five, and no such company shall issue securities except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit. 1953, c. 19, s. 3 (2); 1954, c. 14, s. 1. Incorporation of
private
company
with limited
objects

4. The Lieutenant Governor may in his discretion issue supplementary letters patent to any corporation that applies therefor amending or otherwise altering or modifying its letters patent or prior supplementary letters patent. 1953, c. 19, s. 4. Supplementary letters
patent

5. The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant Governor, but not those conferred on the Lieutenant Governor in Council. 1953, c. 19, s. 5. Powers of
Provincial
Secretary

6. An applicant under this Act shall establish to the satisfaction of the Provincial Secretary the sufficiency of the application and all documents filed therewith and shall furnish such evidence of the *bona fides* of the application as the Provincial Secretary deems proper. 1953, c. 19, s. 6. Sufficiency
of material
to be
established

7. The Provincial Secretary or any person in his department to whom an application is referred may take evidence under oath with respect thereto. 1953, c. 19, s. 7. Proof under
oath

8. On an application for letters patent, supplementary letters patent or an order, the Lieutenant Governor may give the corporation a name different from its proposed or existing name, may vary the objects or other provisions of the application and may impose such conditions as he deems proper. 1953, c. 19, s. 8. Variation
of terms
of applica-
tion

Defects in
form not
to invalidate
letters
patent

9. The provisions of this Act relating to matters preliminary to the issue of letters patent or supplementary letters patent or an order are directory only, and no letters patent or supplementary letters patent or order are void or voidable on account of any irregularity or insufficiency in any matter preliminary to the issue thereof. 1953, c. 19, s. 9.

Notice of
issue of
letters
patent

10. The Provincial Secretary shall cause notice of the issue of letters patent, supplementary letters patent or an order to be given forthwith in *The Ontario Gazette*. 1953, c. 19, s. 10.

Commence-
ment of
existence

11. A corporation shall be deemed to be in existence on and after the date of its letters patent. 1953, c. 19, s. 11.

Corporate
name

12.—(1) A corporation shall not be given a name,

(a) that is the same as or similar to the name of a known corporation, association, partnership, individual or business if its use would be likely to deceive, except where the corporation, association, partnership, individual or person signifies its or his consent in writing that its or his name in whole or in part be granted, and, if required by the Provincial Secretary,

(i) in the case of a corporation, undertakes to dissolve or change its name within six months after the incorporation of the new corporation, or

(ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name, within six months after the incorporation of the new corporation;

(b) that suggests or implies a connection with the Crown or any member of the Royal Family or the Government of Canada or the government of any province of Canada or any department, branch, bureau, service, agency or activity of any such government without the consent in writing of the appropriate authority;

(c) that, when the objects applied for are of a political nature, suggests or implies a connection with a political party or a leader of a political party;

(d) that includes the word "co-operative" or any abbreviation or derivation thereof unless the corporation is subject to Part V; or

(e) that is objectionable on any public grounds.

(2) If a corporation through inadvertence or otherwise has been or is given a name that is objectionable, the Lieutenant Governor, after he has given notice to the corporation of his intention so to do, may direct the issue of supplementary letters patent changing the name of the corporation to some other name. Change of name if objectionable

(3) A person who feels aggrieved as a result of the giving of a name under subsection 1 or the changing or refusing to change a name under subsection 2 may, upon at least seven days notice to the Provincial Secretary and to such other persons as the court directs, apply to the court for a review of the matter, and the court may make an order changing the name of the corporation to such name as it deems proper or may dismiss the application. 1953, c. 19, s. 12 (1-3). Reference to court

(4) A copy of an order made under subsection 3, certified under the seal of the court, shall be filed with the Provincial Secretary by the corporation within ten days after it is made. 1953, c. 19, s. 12 (4); 1955, c. 9, s. 1. Filing

(5) A corporation that fails to comply with subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in any such failure is guilty of an offence and on summary conviction is liable to a like fine. 1953, c. 19, s. 12 (5). Offence

13. A change in the name of a corporation does not affect its rights or obligations. 1953, c. 19, s. 13. Change not to affect rights, etc.

14. A person, partnership or association that trades or carries on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof is used, unless incorporated, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 14. Unauthorized use of "Limited", etc.

15. The Provincial Secretary may on the application in writing of any person and on the payment of a fee of \$2 reserve a corporate name for the use and benefit of the applicant or his nominee for a period of sixty days or such lesser period as he specifies. 1953, c. 19, s. 15. Reservation of name

Notice of
name

16. A person, partnership or association may notify the Provincial Secretary of the name under which his or its business or undertaking is carried on and thereupon the Provincial Secretary shall make a notation thereof in his records. 1953, c. 19, s. 16.

PART II

COMPANIES

Application

17. This Part, except where it is otherwise expressly provided, applies,

- (a) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every company incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a company, incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. 1953, c. 19, s. 17.

R.S.O. 1960,
c. 222

Application
for incor-
poration

18.—(1) The applicants for incorporation of a company shall file with the Lieutenant Governor an application showing:

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the company to be incorporated.
3. The objects for which the company is to be incorporated.
4. The place in Ontario where the head office of the company is to be situate.

5. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued.
6. Where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them.
7. Where the company is to be a private company, a statement to that effect and the restrictions to be placed on the transfer of its shares.
8. The names of the applicants who are to be the first directors of the company.
9. The class and number of shares to be taken by each applicant and the amount to be paid therefor.
10. Any other matters that the applicants desire to have included in the letters patent.

(2) The applicants may ask to have included in the letters ^{Idem} patent any provision that could be the subject of a by-law of the company. 1953, c. 19, s. 18; 1954, c. 14, s. 2.

19. Upon incorporation of a company, each applicant be-^{Original} comes a shareholder holding the class and number of shares^{shareholders} stated in the application to be taken by him and is liable to the company for the amount to be paid therefor. 1953, c. 19, s. 19.

20.—(1) The name of a company shall have the word ^{Use of word} "Limited" as the last word thereof, but a company may use^{"Limited"} the abbreviation "Ltd." for "Limited" and may be referred to in the same manner.

(2) This section does not apply to insurers incorporated^{Not appli-} under Part VI. 1953, c. 19, s. 20.^{cable to}
^{insurers}

21.—(1) Where a company or a director, officer or em-^{Use of} ployee thereof uses the name of the company, the word^{name} "Limited", or the abbreviation "Ltd.", shall appear as the last word thereof.

Exception

(2) Stamping, writing, printing or otherwise marking on goods, wares and merchandise of the company or upon packages containing the same shall not be deemed a use of the name within the meaning of subsection 1.

Idem

(3) A private company shall have the words "private company" on its seal.

Offence

(4) A company that contravenes any requirement of this section and every director, officer or employee of the company who authorizes, permits or acquiesces in any such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 21.

Incidental powers

22.—(1) A company possesses, as incidental and ancillary to the objects set out in the letters patent or supplementary letters patent, power,

- (a) to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
- (b) to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the company is authorized to carry on;
- (c) to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;
- (d) to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction that the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, re-issue, with or without guarantee, or otherwise deal with the same;
- (e) to take or otherwise acquire and hold shares in any other company having objects altogether or in

part similar to those of the company or carrying on any business capable of being conducted so as to benefit the company;

- (*f*) to enter into arrangements with any public authority that seem conducive to the company's objects and obtain from any such authority any rights, privileges or concessions;
- (*g*) to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the company or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this clause, and subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;
- (*h*) to promote any company for the purpose of acquiring or taking over any of the property and liabilities of the company, or for any other purpose that may benefit the company;
- (*i*) to purchase, lease or take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the company may think necessary or convenient for the purposes of its business;
- (*j*) to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches, sidings, bridges, reservoirs, watercourses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the company's interests, and to contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof; 1953, c. 19, s. 22 (1), cls. (*a-j*).
- (*k*) to raise and assist in raising money for, and to aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or company with whom or which the company may have business relations or any of whose shares, securities or other obligations are held by the company and to guarantee the per-

formance or fulfilment of any contracts or obligations of any such person or company, and in particular to guarantee the payment of the principal of and interest on securities, mortgages and liabilities of any such person or company; 1954, c. 14, s. 3.

- (*l*) to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
- (*m*) to sell, lease, exchange or dispose of the undertaking of the company or any part thereof as an entirety or substantially as an entirety for such consideration as the company thinks fit, and in particular for shares or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by a special resolution;
- (*n*) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the company in the ordinary course of its business;
- (*o*) to adopt such means of making known the products of the company as seems expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes and rewards or making donations;
- (*p*) to cause the company to be registered and recognized in any foreign country or province or territory of Canada, and to designate persons therein according to the laws of such foreign country or province or territory to represent the company and to accept service for and on behalf of the company of any process or suit;
- (*q*) to allot and issue fully-paid shares of the company in payment or part payment of any property purchased or otherwise acquired by the company or for any past services rendered to the company;
- (*r*) to distribute among the shareholders of the company in money, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner deemed advisable, any property of the company, but no such distribution shall decrease the

capital of the company unless made in accordance with this Act;

- (s) to pay all costs and expenses of or incidental to the incorporation and organization of the company;
- (t) to invest and deal with the moneys of the company not immediately required for its objects in such manner as may be determined;
- (u) to do any of the above things and all things authorized by the letters patent and supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (v) to do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the letters patent and supplementary letters patent. 1953, c. 19, s. 22 (1), cls. (l-v).

(2) Any of the powers set out in subsection 1 may be withheld or limited by the letters patent or supplementary letters patent. 1953, c. 19, s. 22 (2).

23.—(1) Except as provided in subsection 2, a company shall not make loans to any of its shareholders or directors or give, directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase made or to be made by any person of any shares of the company. 1955, c. 9, s. 2.

(2) A company may,

Exceptions

- (a) make loans to any of its shareholders or directors in the ordinary course of its business where the making of loans is part of the ordinary business of the company; or
- (b) make loans to *bona fide* full-time employees of the company whether or not they are shareholders or directors, with a view to enabling them to purchase or erect dwelling houses for their own occupation, and may take from such employees mortgages or other securities for the repayment of such loans; or
- (c) provide, in accordance with a scheme for the time being in force, money by way of loan for the purchase

by trustees of fully-paid shares of the company, to be held by or for the benefit of *bona fide* employees of the company, whether or not they are shareholders or directors; or

(d) make loans to *bona fide* employees of the company, other than directors, whether or not they are shareholders, with a view to enabling them to purchase fully-paid shares of the company to be held by them by way of beneficial ownership; or

(e) if it is a private company, make loans to any of its shareholders or directors with a view to enabling them to purchase issued shares of the company. 1953, c. 19, s. 23 (2).

By by-law
only

(3) The power mentioned in clause *b*, *c*, *d* or *e* of subsection 2 may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering the by-law. 1954, c. 14, s. 4.

Liability of
directors

(4) Every director and officer of a company making or assenting to a loan in contravention of this section is, until repayment of the loan, jointly and severally liable to the company and to its creditors for the debts of the company then existing or thereafter contracted to the amount of the loan with interest at the rate of 5 per cent per annum. 1953, c. 19, s. 23 (4).

Authorized
capital

24.—(1) The authorized capital of a company shall be divided into shares with par value or without par value or both and may consist of shares of more than one class.

Par
shares

(2) Where the shares of a company are with par value, its authorized capital shall be expressed in dollars, pounds, francs or other currency in the letters patent or supplementary letters patent and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof.

No par or
par and
no par
shares

(3) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, its authorized capital shall be expressed as a specified number of shares in the letters patent or supplementary letters patent.

Considera-
tion for
no par
shares

(4) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, the letters patent or supplementary letters

patent may provide that each share without par value or the shares of each class of shares without par value are not to be issued for a consideration exceeding in amount or value a stated amount in dollars, pounds, francs or other currency, and the letters patent or supplementary letters patent may provide, in addition, that such share or shares may be issued for such greater amount as the board of directors of the company deems expedient on payment to the Treasurer of Ontario of the fees payable on such greater amount and on the issuance by the Provincial Secretary of a certificate of such payment. 1953, c. 19, s. 24; 1954, c. 14, s. 5.

25. Each share of a class shall be the same in all respects as ^{Nature of shares} every other share of that class. 1953, c. 19, s. 25.

26.—(1) If a company has more than one class of shares, ^{More than one class of shares} one class shall be common shares designated as such and the other class or classes shall be preference shares howsoever designated.

(2) Subsection 1 does not apply to shares authorized before ^{Application} the 30th day of April, 1954. 1953, c. 19, s. 26.

27.—(1) If a company has more than one class of shares, ^{Preference shares} the letters patent or supplementary letters patent shall provide that the preference shares of a class confer upon the holders thereof a preference or right over the holders of shares of another class, either preference or common, and such preference or right, without limiting the nature thereof, may be in respect of dividends, repayment of capital, the right to elect part of the board of directors or the right to convert such shares into shares of another class or other classes of shares or into securities.

(2) The letters patent or supplementary letters patent of a ^{Conditions, etc.} company may provide that the preference shares of a class may have attached thereto conditions, restrictions, limitations or prohibitions including, but without limiting the nature thereof, the right of the company to purchase for cancellation or at its option to redeem all or part of the shares of that class or conditions, restrictions, limitations or prohibitions on the right to vote.

(3) If the letters patent or supplementary letters patent so ^{Redemption by share-holders} provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, any preference shares of a class may be redeemed by the company at the request of a holder or of a number or proportion of such holders.

No-par
preference
shares not
to be
redeemed

(4) Preference shares without par value do not have a preference in respect of the repayment of capital and are not subject to redemption or purchase for cancellation.

Redemption
of par value
preference
shares

(5) Where preference shares with par value are to be redeemed, they shall be redeemed at the amount paid up thereon, but, if the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, a premium, unpaid dividends or other stated amount may be paid.

Redemption
at actual
value

(6) Notwithstanding subsection 5, if the letters patent or supplementary letters patent so provide, the preference shares of a class may be redeemed out of money set aside in a fund for such purpose at a price as near as may be to the actual value thereof, and the method of determining such actual value shall be set out in the letters patent or supplementary letters patent. 1953, c. 19, s. 27 (1-6).

Redemption
of part

(7) Except as provided in subsections 8 and 9, where the preference shares of a class are made redeemable by the letters patent or supplementary letters patent and where at any time some but not all of such shares are to be redeemed, the shares to be redeemed shall be selected by lot in such manner as the board of directors determines or as nearly as may be in proportion to the number of shares registered in the name of each shareholder.

Redemption
of all or
part

(8) Where at least 95 per cent of the holders of the preference shares of a class holding at least 95 per cent of the issued shares of such class consent in writing and where, after twenty-one days notice has been given by sending the notice to each of the holders of shares of such class to his last address as shown on the books of the company, none of the holders of shares of such class dissents in writing to the company, the company may redeem all or any of such shares in such manner as the board of directors determines. 1954, c. 14, s. 6 (1), *part*.

Redemption
of preference
shares of
private
company

(9) Where a holder of preference shares of a private company dies or leaves its employment, it may within one year of such event redeem all or any of the preference shares held by the deceased shareholder or former employee. 1954, c. 14, s. 6 (1), *part*; 1955, c. 9, s. 3.

Power to
withhold

(10) The letters patent or supplementary letters patent of a company may withhold any of the powers set out in subsection 7, 8 or 9. 1954, c. 14, s. 6 (2).

(11) Where the letters patent or supplementary letters patent provide that the preference shares may be purchased for cancellation by the company, the company may purchase some or all of such shares at the lowest price at which, in the opinion of the directors, such shares are obtainable, but not exceeding the amount paid up thereon; but, if the letters patent or supplementary letters patent so provide, a premium, unpaid dividends or other stated amount may be paid.

Purchase of
preference
shares by
company

(12) Preference shares shall not be redeemed or purchased for cancellation by the company if the company is insolvent or if the redemption or purchase would render the company insolvent.

Insolvency

(13) Where preference shares are redeemed or purchased for cancellation by the company, they shall be thereby cancelled, and the authorized and the issued capital of the company shall be thereby decreased.

Effect of
redemption

(14) Where preference shares are converted into the same or another number of shares of another class or classes, whether preference or common, the shares converted thereupon become the same in all respects as the shares of the class or classes respectively into which they are converted and the number of shares of each class affected by the conversion is changed accordingly.

Conversion
of prefer-
ence shares

(15) Where preference shares are converted into another class or other classes of shares, the issued capital of the company shall not be increased or decreased by the conversion.

Issued
capital
unchanged
on con-
version

(16) Subsections 1, 4, 7, 8, 9 and 11 do not apply to shares authorized before the 30th day of April, 1954. 1954, c. 14, s. 6 (3).

Application

28.—(1) The letters patent or supplementary letters patent of a company may authorize the issue from time to time in one or more series of the preference shares of a class and may authorize the directors to fix from time to time before such issue the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of each series of such class.

Preference
shares in
series

(2) The shares of all series of the same class of preference shares shall carry the same voting rights or the same restrictions, conditions, limitations or prohibitions on the right to vote.

Voting
rights

Dividends

(3) Where any dividends or amounts payable on a repayment of capital are not paid in full, the shares of all series of the same class of preference shares shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full.

Conditions precedent to issue

(4) No shares of any series of a class of preference shares shall be issued until supplementary letters patent have been issued setting forth the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series except in the case of the first series if such designation, preferences, rights, conditions, restrictions, limitations or prohibitions have been set forth in the letters patent or prior supplementary letters patent.

Issue of supplementary letters patent

(5) The Lieutenant Governor may issue such supplementary letters patent on the application of the company authorized by a resolution of the directors fixing the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series and the filing with the Provincial Secretary of evidence of the due compliance with the conditions, if any, contained in the letters patent or in any prior supplementary letters patent, precedent to the creation and issue of the shares of such series. 1953, c. 19, s. 28.

Voting rights

29.—(1) Subject to subsection 2 of section 27, every holder of a preference share or a common share is entitled to one vote for each preference share or each common share held by him at all meetings of the shareholders of the company, but this subsection does not apply to shares authorized before the 30th day of April, 1954.

Votes

(2) The letters patent or supplementary letters patent may provide for a greater number of votes for each share of a class or classes at all times or on the happening of a stated event. 1953, c. 19, s. 29.

Issued capital, par value shares

30.—(1) Where the shares of a company are with par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof.

No par value shares, etc.

(2) Where the shares of a company are without par value or where part of its shares are with par value and part are

without par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the company may be transferred thereto.

(3) Nothing in subsection 2 affects the capital of a company ^{Idem} in respect of shares without par value issued before the 30th day of April, 1954, if the letters patent or the supplementary letters patent of the company provide that the capital is to be at least equal to the sum of the aggregate par value of all issued shares having par value plus a sum in dollars, pounds, francs or other currency in respect of every issued share without par value plus such amounts as from time to time by by-law of the company may be transferred thereto.

(4) Where before the 30th day of April, 1954, a company ^{Idem} has set aside part of the consideration received upon the allotment and issue of shares without par value as distributable surplus, the amount of such distributable surplus does not form part of its issued capital. 1953, c. 19, s. 30.

31.—(1) In the absence of a provision to the contrary in the letters patent, supplementary letters patent or by-laws ^{Issue of shares} of the company, shares may be allotted and issued at such times and in such manner and to such persons or class of persons as the directors determine.

(2) Shares with par value shall not be allotted and issued ^{Consideration, par value shares} as fully paid except for a consideration payable in cash at least equal to the product of the number of shares allotted and issued multiplied by the par value thereof or for a consideration payable directly or indirectly in property or past services which the directors in good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

(3) Shares without par value may be allotted and issued ^{Consideration, no par shares} for such consideration as is fixed by the directors acting in good faith and in the best interests of the company.

(4) Shares without par value shall not be allotted and issued ^{Idem} as fully paid except for the consideration fixed by the directors as aforesaid payable in cash to the total amount of the consideration so fixed or for a consideration payable directly or indirectly in property or past services which the directors in

good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

Holders not
liable to
creditors,
etc.

(5) Shares allotted and issued in accordance with this section shall be fully paid and non-assessable upon receipt by the company of the consideration for the allotment and issue thereof, and upon such receipt the holders of such shares are not liable to the company or to its creditors in respect thereof. 1953, c. 19, s. 31.

Commission
on sale of
shares

32.—(1) The directors may pass by-laws for the payment of commissions to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional for such shares, but no such commission shall exceed 25 per cent of the amount of the subscription.

Commission
by-laws to
be con-
firmed

(2) No by-law passed under subsection 1 is effective until it is confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it.

No
unauthorized
commissions

(3) Except as provided in subsection 1, no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or is paid out of the nominal purchase money or contract price or otherwise. 1953, c. 19, s. 32.

Supple-
mentary
letters
patent

33.—(1) A company may apply to the Lieutenant Governor for the issue of supplementary letters patent,

(a) extending, limiting or otherwise varying its objects;

(b) changing its name;

(c) increasing its authorized capital;

(d) decreasing,

(i) its authorized capital by cancelling issued or unissued shares with or without par value or by reducing the par value of issued or unissued shares, or

- (ii) its issued capital, if it has shares without par value,

and, where it has more capital than it requires, authorizing the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;

- (e) redividing its authorized capital into shares of lesser or greater par value;
- (f) consolidating or subdividing any of its shares without par value;
- (g) changing any of its shares with par value into shares without par value;
- (h) changing any of its shares without par value into shares with par value;
- (i) reclassifying any shares with or without par value into shares of a different class;
- (j) varying any provision in its letters patent or prior supplementary letters patent;
- (k) providing for any other matter or thing in respect of which provision may be made in letters patent under this Act;
- (l) converting it into a public company;
- (m) making it subject to Part IV;
- (n) making it not subject to Part IV;
- (o) converting it into a private company;
- (p) converting it into a corporation without share capital;
- (q) converting it into a corporation, with or without share capital, subject to Part V;
- (r) making it not subject to Part V.

(2) An application under clauses *a* to *n* of subsection 1 shall be authorized by a special resolution. 1953, c. 19, s. 33 (1, 2). ^{Authorization}

Idem

(3) An application under clauses *o* to *r* of subsection 1 shall be authorized by a resolution of the board of directors and confirmed in writing,

(a) by 100 per cent of the shareholders; or

(b) by at least 95 per cent of the shareholders holding at least 95 per cent of the issued capital,

but, in the case of confirmation under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each shareholder to his last address as shown on the books of the company and only if at the expiration of the twenty-one days none of the shareholders has dissented in writing to the company.

Additional
authori-
zation for
variation of
rights of
preference
shareholders

(4) If the application is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, then, subject to subsection 5 and in addition to the authorization required by subsection 2, the application shall not be made until the application has been authorized in writing,

(a) by 100 per cent of the holders of the shares of such class or classes of shares; or

(b) by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes,

but, in the case of authorization under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each of the holders of shares of such class or classes to his last address as shown on the books of the company and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the company. 1955, c. 9, s. 4.

Idem

(5) If the letters patent or supplementary letters patent so provide, the authorization required by subsection 4 may be given by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose. 1954, c. 14, s. 7 (1), *part*.

Exception

(6) Where letters patent or supplementary letters patent issued before the 30th day of April, 1954, provide for an authorization for an application for supplementary letters patent to delete or vary a preference, right, condition, restriction,

limitation or prohibition attaching to preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, such authorization is effective, and subsections 4 and 5 do not apply. 1953, c. 19, s. 33 (5); 1954, c. 14, s. 7 (2).

(7) An application under subsection 1 may be made only within six months after the resolution has been confirmed by the shareholders. Time of application

(8) Subsection 4 does not apply to an arrangement under section 95. Exception

(9) This section does not apply to a company incorporated by special Act, except that a company incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. 1953, c. 19, s. 33 (6-8). Special Act corporations excepted

34. On an application for supplementary letters patent decreasing authorized or issued capital, the company shall establish to the satisfaction of the Provincial Secretary that after the decrease the company will be solvent and, if required by the Provincial Secretary, shall establish to his satisfaction that there are no creditors who object to the application. 1953, c. 19, s. 34. Reduction of capital

35. Where issued shares without par value are cancelled, the issued capital is thereby decreased by an amount equal to the total of the products of the average consideration for which the shares of each such class were issued multiplied by the number of shares cancelled of each such class, respectively. 1953, c. 19, s. 35. Decrease of issued capital

36.—(1) On a decrease of the issued capital of a company by supplementary letters patent, each person who was a shareholder on the date of the supplementary letters patent is individually liable to the creditors of the company for the debts due on that date to an amount not exceeding the amount of the repayment to him or reduction of his liability, or both, as the case may be. Liability on decrease of issued capital

(2) A person is not liable under subsection 1, Limitation of liability

- (a) unless the company has been sued for the debt within six months after the date of the supplementary letters patent and execution has been returned unsatisfied in whole or in part; and
- (b) unless he is sued for the debt within two years from the date of the supplementary letters patent.

Idem

(3) After execution has been so returned, the amount due on the execution, not exceeding the amount of the repayment to the person or the reduction of his liability, is the amount recoverable against such person.

Class actions

(4) Where it is made to appear that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders as may be found, and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Shareholder holding shares in fiduciary capacity

(5) No person holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee, who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust, is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. 1953, c. 19, s. 36; 1954, c. 14, s. 8.

Fractional shares

37.—(1) A person entitled to a fraction of a share is not entitled to be registered on the books of the company in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction and, on presentation at the head office of the company, or at a place designated by the company, of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor and the person in whose name such certificate is issued shall be registered on the books of the company as the holder of such share.

Transfer

(2) Such a bearer fractional certificate is transferable by delivery. 1953, c. 19, s. 37 (1, 2).

Purchase by company

(3) For the purpose of consolidating fractions of shares into whole shares, a company may purchase fractions of shares and, if it does so, it shall sell forthwith the whole shares resulting from the consolidation. 1954, c. 14, s. 9.

Shares deemed personal estate

38. The shares of a company shall be deemed to be personal estate. 1953, c. 19, s. 38.

39.—(1) The shares of a company are transferable on the books of the company subject to such conditions and restrictions as this Act, the special Act, the letters patent or supplementary letters patent prescribe. Transfer of shares

(2) Subject to subsection 3, no by-law shall be passed that in any way restricts the right of a holder of fully-paid shares to transfer them, but by-laws may be passed regulating the method of their transfer. Transfer by-laws

(3) Except in the case of shares listed on a recognized stock exchange, where the letters patent, supplementary letters patent or by-laws so provide, the directors may refuse to permit the registration of a transfer of fully-paid shares registered in the name of a shareholder who is indebted to the company. 1953, c. 19, s. 39. Where shareholder indebted to company

40. Every company shall cause to be kept a register of transfers in which all transfers of shares and the date and other particulars of each transfer shall be set out. 1953, c. 19, s. 40. Register of transfers

41. A company may appoint a transfer agent to keep the register of shareholders and the register of transfers and may also appoint one or more branch transfer agents to keep branch registers of shareholders and branch registers of transfers. 1953, c. 19, s. 41. Transfer agents

42.—(1) The register of shareholders and the register of transfers shall be kept at the head office of the company or at such other office or place in Ontario as is appointed by resolution of the directors, and the branch register or registers of shareholders and the branch register or registers of transfers may be kept at such office or offices of the company or other place or places, either in or outside Ontario, as are appointed by resolution of the directors. Where registers to be kept

(2) Registration of the transfer of a share of the company in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. Valid registration

(3) In each branch register of transfers shall be recorded only the particulars of the transfers of shares registered in that branch register of transfers. Entry in branch transfer register

(4) Particulars of every transfer of shares registered in every branch register of transfers shall be recorded in the register of transfers. Entry in register of transfers

Closing of
register of
transfers

(5) The directors of a company may by resolution close the register of transfers and the branch register or registers of transfers, if any, for a period of time not exceeding forty-eight hours, exclusive of Saturdays and holidays, immediately preceding any meeting of the shareholders, and notice of every such closing shall be given in a newspaper published in the place where the register of transfers is kept and in a newspaper published in each place in which a branch register of transfers is kept. 1953, c. 19, s. 42.

Share
certifi-
cates

43.—(1) Every shareholder is entitled to a share certificate in respect of the shares held by him, signed by the proper officers in accordance with the company's by-laws in that regard, but the company is not bound to issue more than one share certificate in respect of a share or shares held jointly by several persons and delivery of a share certificate to one of several joint shareholders is sufficient delivery to all.

Evidence

(2) A share certificate is *prima facie* evidence of the title of the shareholder to the shares represented thereby.

Fee

(3) A company may charge a fee of not more than 50 cents for every share certificate issued, except that, in the case of the allotment and issue of shares, no fee shall be charged. 1953, c. 19, s. 43.

Lost
certifi-
cates

44. Where a share certificate is defaced, destroyed or lost, a new certificate may be issued in its place on payment of such fee, if any, not exceeding \$1 and on such terms, if any, as to evidence and indemnity as the directors determine. 1953, c. 19, s. 44.

Contents
of share
certifi-
cates

45.—(1) Every share certificate,

- (a) shall bear upon its face the name of the company, the words "Incorporated in the Province of Ontario" or words of like effect and a statement of its authorized capital; and
- (b) shall state the number and class of shares represented thereby and whether the shares are with par value or without par value and, if partly paid, the amount paid up thereon or that the shares are fully paid, as the case may be; and
- (c) if it represents preference shares, shall state thereon in legible characters the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the class of preference shares to which it belongs; and

- (d) if it represents shares of a private company, shall bear upon its face the words "Private Company".

(2) Where some but not all of the preference shares of a Exception class are converted, redeemed or purchased for cancellation, it is unnecessary for the company to change the statement of its authorized capital on its share certificates. 1953, c. 19, s. 45.

46. A share certificate shall be signed manually by at least one officer of the company or by or on behalf of a transfer agent or branch transfer agent of the company, and the company may by by-law provide that any additional signatures required on share certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share certificates so signed are as valid as if they had been signed manually. 1953, c. 19, s. 46. Signing of share certificates

47.—(1) A company is not bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share. Trusts

(2) The receipt of the shareholder in whose name the share is registered on the books of the company is a valid and binding discharge to the company for any payment made in respect of such share whether notice of such trust has been given to the company or not. Discharge

(3) The company is not bound to see to the application of the money paid upon such receipt. Application of money paid

(4) The written authorization of an executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as holding shares in any such capacity is sufficient justification for the company to register a transfer of such shares, including a transfer into the name of such executor, administrator, committee of a mentally incompetent person, guardian or trustee absolutely. 1953, c. 19, s. 47. Authority to transfer

48.—(1) A public company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions respecting share warrants therein contained, may, with respect to any fully-paid shares, issue under the seal of the company a share warrant stating that the bearer of it is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of future dividends on the share or shares specified in the share warrant. Share warrants

Entry of
share
warrant
in company
books

(2) On the issue of a share warrant, the company shall remove from its books the name of the shareholder then entered thereon as holding such share or shares as if he had ceased to be a shareholder and shall enter in such books the following particulars:

1. The fact of the issue of the share warrant.
2. A statement of the shares specified in the share warrant.
3. The date of the issue of the share warrant.

Transfer

(3) A share warrant entitles the bearer thereof to the shares therein specified and the shares may be transferred by delivery of the warrant.

Bearer of
share war-
rant deemed
shareholder

(4) The bearer of a share warrant shall be deemed to be a shareholder of the company, except that he is not entitled to receive notice of meetings or a copy of any financial statement or auditor's report and is not qualified in respect of shares specified in the share warrant to be a director of the company.

Voting
rights

(5) Upon presentation of a share warrant at a meeting of shareholders, its bearer is entitled to attend the meeting and vote the shares specified in it.

Certificate

(6) For the purpose of subsection 5, the expression "share warrant" includes a certificate or other document satisfactory to the company to the effect that its bearer is the holder of a share warrant in respect of the shares specified in the certificate or other document.

Exchange
of warrant
for regis-
tration
as share-
holder

(7) The bearer of a share warrant is, subject to the provisions respecting share warrants contained in the letters patent or supplementary letters patent, entitled, on surrendering it for cancellation, to have the shares specified in it registered in his name on the books of the company, and the company is responsible for any loss incurred by any person by reason of the company entering on its books the name of the bearer of a share warrant in respect of the shares specified in it without the warrant being surrendered and cancelled.

Surrender
of share
warrant

(8) Upon the surrender of a share warrant for cancellation, the date of the surrender shall be entered in the books of the company. 1953, c. 19, s. 48.

49.—(1) No transfer of shares, unless made by sale under an execution or under a decree, order or judgment of a court of competent jurisdiction, is valid for any purpose whatsoever until registration thereof has been duly made in the register of transfers or in a branch register of transfers of the company, save only as exhibiting the rights of the parties thereto towards each other and, if absolute, of rendering any transferee jointly and severally liable with the transferor to the company and to its creditors.

Transfers
valid only
after
registra-
tion

(2) Notwithstanding subsection 1, where fully-paid shares are listed on a recognized stock exchange at the time of the delivery of a certificate for such shares with a duly executed instrument of transfer endorsed thereon or accompanying it, such delivery constitutes a valid transfer of the shares represented by such certificate, but, until registration of such transfer is duly made in the register of transfers or in a branch register of transfers of the company, the company may treat the person in whose name the shares represented by such certificate are registered on the books of the company as being solely entitled to receive notice of and vote at meetings of shareholders and receive any payments in respect of such shares whether by way of dividends or otherwise.

Exception

(3) A power of attorney contained in a duly executed instrument of transfer endorsed on or accompanying a share certificate delivered for value before the death of the transferor is not revoked by the death of the transferor but is valid and effectual subject to the conditions or restrictions, if any, contained therein. 1953, c. 19, s. 49, *revised*.

Power of
attorney
not revoked
by death

50.—(1) The directors may refuse to permit the registration of a transfer of shares on the books of the company for the purpose of notifying the person registered thereon as owner of such shares of the application for such registration, and in that event the company shall forthwith give notice to such person of such application.

Notice to
owner

(2) The owner may within seven days after the giving of such notice lodge a caveat against the registration of the transfer and thereupon the registration of the transfer shall not be made for a period of forty-eight hours.

Owner may
lodge caveat

(3) If within one week after the giving of such notice or the expiration of such period of forty-eight hours, whichever last expires, no order of a competent court enjoining the registration of the transfer has been served upon the company, the transfer may be registered.

Transfer
may be
registered if
no order
served

Liability of
company

(4) Where a transfer of shares is registered after the proceedings mentioned in this section, the company is not liable in respect of such shares to a person whose rights are purported to be transferred, but nothing in this subsection prejudices any claim the transferor may have against the transferee. 1953, c. 19, s. 50.

Where con-
sent of
directors
to transfer
required

51.—(1) No registration of a transfer of shares that are not fully paid shall be made without the consent of the directors and of the transferee and, subject to subsection 4, where such registration is made with the consent of the directors, the transferor is not liable to the company or to its creditors for the amount unpaid on such shares.

Directors'
liability

(2) Subject to subsection 3, where registration is made with the consent of the directors of a transfer of shares that are not fully paid to a person whom the directors have reason to believe is not of sufficient means to pay fully for such shares, the directors are jointly and severally liable to the company and to its creditors in the same manner and to the same extent as the transferor would have been liable if the registration had not been made.

Relief from
liability

(3) If a director, present when such consent to registration is given, forthwith, or, if a director then absent, within seven days after he becomes aware of such consent, delivers to an officer of the company his written protest against such consent and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Provincial Secretary, such director thereby and not otherwise exonerates himself from liability under subsection 2.

Liability
where call
remains
unpaid

(4) Where the transfer of a share upon which a call is unpaid is registered with the consent of the directors and of the transferee, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor also remains liable for the call until it is paid. 1953, c. 19, s. 51.

Transmis-
sion of
deceased
shareholder's
shares

52. Where upon the death of a holder of any shares or securities of a company a transmission thereof takes place to or title to or control thereof vests or is claimed to vest in any person, herein called "the successor", then, subject to *The Succession Duty Act*, the company is justified in permitting or consenting to the registration thereof in the name of the successor on the company's books or in paying

R.S.O. 1960,
c. 386

the principal amount thereof or any dividend or interest thereon to the successor,

- (a) if the successor claims by virtue of a grant of probate or letters of administration or other instrument issued or purporting to be issued by a court or other judicial authority in any jurisdiction, upon production of the same or an authenticated copy thereof or extract therefrom or a certificate of such grant under the seal of such court or other authority without any proof of the authenticity of such seal or other proof whatever and deposit of a copy thereof; or
- (b) if the successor claims by virtue of the laws of any jurisdiction in which any such transmission or vesting of title or control takes place without a grant of probate or letters of administration or other court or judicial action, upon production and deposit of proof thereof in accordance with the laws of such jurisdiction and reasonable evidence of such laws; or
- (c) if the net value of the estate of the deceased holder is less than \$1,500 or if the market value of the shares or securities is less than \$300, upon proof thereof to the reasonable satisfaction of the company,

together with, in any such event, production and deposit by the successor of a sworn statement showing the nature of the transmission or vesting of title or control, as the case may be. 1953, c. 19, s. 52; 1954, c. 14, s. 10.

53.—(1) The directors may by resolution call in and by notice thereof in writing demand from the shareholders the whole or any part of the amount unpaid on shares held by them at such times and places and in such payments or instalments as this Act, the special Act, the letters patent, the supplementary letters patent, the by-laws or the terms of allotment and issue of such shares require or allow.

(2) The demand shall state that, in the event of the call not being paid in accordance with the demand, the shares in respect of which the call was made will be liable to be forfeited.

(3) If a shareholder fails to pay a call due by him on or before the day appointed for the payment thereof, he is liable to pay interest on the amount thereof at the rate of 5 per cent per annum from the day appointed for payment to the time of payment.

Forfeiture
of shares

(4) In the event of the call not being paid in accordance with the demand, the directors may forfeit any shares on which the call is not paid.

Sale of
forfeited
shares

(5) Any forfeited shares become the property of the company upon the forfeiture, and, subject to its by-laws, may be sold.

Continuing
liability

(6) Notwithstanding such forfeiture, the holder of such shares at the time of forfeiture continues liable to the company and to its creditors for the full amount unpaid on such shares at the time of forfeiture, less any sums that are subsequently received by the company in respect thereof.

Refund of
excess on
sale

(7) Where the company receives on the sale of forfeited shares an amount in excess of the amount then unpaid on such shares, the excess amount shall be paid to the person whose shares were forfeited.

Recovery
of calls
by suit

(8) The directors may, instead of forfeiting any shares, enforce payment of all calls and interest thereon by action in a court of competent jurisdiction. 1953, c. 19, s. 53.

Right to
receive
uncalled
moneys

54. The directors may receive at any time from a shareholder all or any part of the moneys uncalled and unpaid upon shares held by him. 1953, c. 19, s. 54.

Share-
holder's
liability
limited

55.—(1) A shareholder shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares.

Share-
holder's
liability

(2) A shareholder, until the whole amount has been paid up on his shares, is liable to the creditors of the company to an amount equal to that unpaid thereon, but he is not liable to an action therefor by a creditor until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part.

Amount
recoverable

(3) The amount due on such execution, not exceeding the amount unpaid on his shares, is the amount recoverable from such shareholder and, when so recovered, shall be considered as paid on his shares.

Set-off

(4) A shareholder may plead by way of defence, in whole or in part, to any such action by a creditor any set-off that he could set up against the company except a claim for unpaid dividends or a salary or allowance as a director or officer of the company. 1953, c. 19, s. 55.

56.—(1) No executor, administrator, committee of a ^{Trustees, etc., not personally liable} mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable in respect of the shares that he so represents.

(2) The estate, person or trust so represented is liable ^{Liability of estate, etc.} as if the testator, intestate, mentally incompetent person, ward or *cestui que trust* were registered on the books of the company as the holder of the shares.

(3) If the testator, intestate, mentally incompetent person, ^{Where trustee, etc., liable} ward or *cestui que trust* so represented is not named on the books of the company, the executor, administrator, committee, guardian or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. 1953, c. 56, s. 56.

57.—(1) The word “mortgagee”, as used in subsection 2, ^{Interpretation} includes a trustee for holders of securities.

(2) No mortgagee of a share of a company and no person ^{Mortgagee not personally liable} holding such a share as collateral security who is registered on the books of the company as the holder of such share and therein described as representing in either of such capacities a named mortgagor or person giving such collateral security is personally liable in respect of such share that he so represents, but the mortgagor or other person giving such collateral security is liable as if he were registered on the books of the company as the holder of such share. 1953, c. 19, s. 57.

58.—(1) The directors may pass by-laws, ^{Borrowing powers}

- (a) for borrowing money on the credit of the company; or
- (b) for issuing, selling or pledging securities of the company; or
- (c) for charging, mortgaging, hypothecating or pledging all or any of the real or personal property of the company, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any securities or any money borrowed, or other debt, or any other obligation or liability of the company.

(2) No by-law passed under subsection 1 is effective until ^{Borrowing by-laws to be confirmed} it has been confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it. 1953, c. 19, s. 58.

Irredeemable
securities

59. A condition contained in a security or in a deed for securing a security is not invalid by reason only that the security is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. 1953, c. 19, s. 59.

Duplicate
to be
filed

60.—(1) A duplicate original, or a copy certified under the seal of the company, of any charge, mortgage or other instrument of hypothecation or pledge made by the company to secure its securities shall be filed forthwith in the office of the Provincial Secretary.

Exception
R.S.O. 1960,
c. 70

(2) Subsection 1 does not apply to a charge or mortgage filed with the Provincial Secretary under *The Corporation Securities Registration Act* or any other Act. 1953, c. 19, s. 60.

Power to
declare
dividends

61.—(1) Subject to the special Act, letters patent or supplementary letters patent of the company, the directors may declare and the company may pay dividends on the issued shares of the company.

Manner of
payment

(2) A dividend may be paid in money or in specie or in kind not exceeding in value the amount of the dividend.

When
dividend
not to be
declared

(3) The directors shall not declare and the company shall not pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or that diminishes its capital, and, if any dividend or bonus is declared and paid contrary to this subsection, the directors are jointly and severally liable to the company for the amount of the dividend so declared and paid or such part thereof as renders the company insolvent or diminishes its capital.

Relief from
liability

(4) If a director, present when any such dividend or bonus is declared, forthwith, or, if a director then absent, within seven days after he becomes aware of such declaration, delivers to an officer of the company his written protest against such declaration and, within seven days after delivery of such protest sends a copy of such protest by registered mail to the Provincial Secretary, such director thereby and not otherwise exonerates himself from liability under subsection 3.

Companies
with
wasting
assets

(5) Nothing in this section prevents a mining company or a company whose assets are of a wasting character, or a company incorporated for the object of acquiring and administering the assets or a substantial part of the assets of another corporation, either from such corporation or from the assign of such corporation, for the purpose of converting such

assets into money and distributing the money among the shareholders of the company, from declaring and paying dividends out of funds derived from the operations of the company.

(6) The powers conferred by subsection 5 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the issued capital of the company if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the company exclusive of its issued capital. 1953, c. 19, s. 61 (1-6). Extent of impairment of capital

(7) Subject to subsection 8, the powers conferred by subsection 5 may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering it. Where confirmed by-law required

(8) Where dividends have been paid by a company in any of the cases mentioned in subsection 5 without the authority of a by-law, the payment thereof is nevertheless valid if a by-law adopting and approving the payment is passed by the directors and confirmed by the shareholders in the manner mentioned in subsection 7. 1954, c. 14, s. 11. Idem

62. For the amount of any dividend that the directors may declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or may credit the amount of such dividend on shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. 1953, c. 19, s. 62. Stock dividends

63. The directors, upon declaring a dividend, may direct that no transfer of shares shall be registered on the books of the company for a stated period, not exceeding two weeks, immediately preceding the payment of the dividend, and payment thereof shall be made to the shareholders of record on the date of closing the books. 1953, c. 19, s. 63. Closing transfer registers

64.—(1) The letters patent, supplementary letters patent or by-laws of a company may provide that every shareholder entitled to vote at an election of directors has the right to cast thereat a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in such manner as he sees fit, and that, where he has voted for more than one candidate without specifying the Cumulative voting for directors

distribution of his votes among such candidates, he shall be deemed to have divided his votes equally among the candidates for whom he voted.

Co-ops

R.S.O. 1960,
c. 79

(2) This section does not apply to companies to which Part V applies or to companies to which *The Credit Unions Act* applies. 1953, c. 19, s. 64; 1954, c. 14, s. 12.

Removal of
directors

65. Where the letters patent, supplementary letters patent or by-laws of a company provide for the election of directors by cumulative voting under section 64, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term, but that no director shall be removed where the votes cast against the resolution for his removal would, if cumulatively voted at an election of the full board of directors, be sufficient to elect one or more directors. 1953, c. 19, s. 65.

Idem

66.—(1) Where the letters patent, supplementary letters patent or by-laws of a company do not provide for cumulative voting under section 64, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term.

Exception

(2) Subsection 1 does not affect the operation of any provision respecting the removal of directors in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954. 1953, c. 19, s. 66.

By-laws

67.—(1) The directors may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue of share certificates, the forfeiture of shares for non-payment, the sale of forfeited shares, the transfer and the registration of transfers of shares;

- (b) the declaration and payment of dividends;
- (c) the qualification and remuneration of the directors;
- (d) the time for and the manner of election of directors;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the company and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of the shareholders and of the board of directors, the quorum at meetings of shareholders, the requirements as to proxies, and the procedure in all things at shareholders' meetings and at meetings of the board of directors;
- (g) the conduct in all other particulars of the affairs of the company.

(2) A by-law passed under subsection 1 and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the shareholders duly called for that purpose, is effective only until the next annual meeting of the shareholders unless confirmed thereat and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the shareholders.

(3) The shareholders may at the general meeting or the annual meeting mentioned in subsection 2 confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law shall be prejudicially affected by any such rejection, amendment or other dealing. 1953, c. 19, s. 67.

68. No by-law for the payment of the president as president or of any director as a director is effective until it has been confirmed at a general meeting of the shareholders duly called for that purpose. 1953, c. 19, s. 68.

69.—(1) Where the number of directors on the board of directors of a company is more than six, the directors may pass a by-law authorizing them to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Confirma-
tion

(2) The by-law is not effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for that purpose.

Quorum

(3) An executive committee may fix its quorum at not less than a majority of its members. 1953, c. 19, s. 69.

Disclosure
by directors
of interests
in contracts

70.—(1) Every director of a company who is in any way directly or indirectly interested in a proposed contract or a contract with the company shall declare his interest at a meeting of the directors of the company.

Time of
declaration

(2) In the case of a proposed contract, the declaration required by this section shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration or, if the director is not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he becomes so interested, and, in a case where the director becomes interested in a contract after it is made, the declaration shall be made at the first meeting of the directors held after he becomes so interested.

General
notice

(3) For the purposes of this section, a general notice given to the directors of a company by a director to the effect that he is a shareholder of or otherwise interested in any other company, or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract so made, but no such notice is effective unless it is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

Effect of
declaration

(4) If a director has made a declaration of his interest in a proposed contract or contract in compliance with this section and has not voted in respect of the contract, he is not accountable to the company or to any of its shareholders or creditors for any profit realized from the contract, and the contract is not voidable by reason only of his holding that office or of the fiduciary relationship established thereby.

Confirma-
tion by
shareholders

(5) Notwithstanding anything in this section, a director is not accountable to the company or to any of its shareholders or creditors for any profit realized from such contract and the contract is not by reason only of his interest therein voidable if it is confirmed by a majority of the votes cast at a general meeting of the shareholders duly called for that purpose and

if his interest in the contract is declared in the notice calling the meeting.

(6) If a director is liable in respect of profit realized from any such contract and the contract is by reason only of his interest therein voidable, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 70.

71.—(1) Upon the filing of a requisition to that effect, signed by at least one shareholder of a public company holding shares representing at least 1 per cent of the issued capital of the company, each director shall make a return to the company to be presented at the next annual meeting stating the number and class of shares of the company acquired or disposed of by him, directly or indirectly, since the last annual meeting of the company or the incorporation of the company where no annual meeting has been held, giving the date of acquisition or disposition in each case.

(2) Such requisition shall be filed with the secretary of the company at least thirty days before the annual meeting at which the return is to be presented.

(3) When notified that such requisition has been filed, each director shall file his return with the secretary of the company at least two days before the annual meeting at which the return is to be presented.

(4) Every director who fails to make a return as required by this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 71.

72. Every director of a company, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the company, given at any meeting of the shareholders, from time to time and at all times, be indemnified and saved harmless out of the funds of the company, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and

- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default. 1953, c. 19, s. 72.

Liability
of directors
for wages

73.—(1) The directors of a company are jointly and severally liable to the clerks, labourers, servants, apprentices and other wage earners thereof for all debts due while they are directors for services performed for the company, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under *The Hours of Work and Vacations with Pay Act* and the regulations thereunder or under any collective agreement made by the company.

R.S.O. 1960,
c. 181

Limitation
of liability

(2) A director is not liable under subsection 1,

- (a) unless the company has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part, or the company has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and the claim on the debt has been fully filed and proved; and

R.S.O. 1952,
c. 14

- (b) unless he is sued for the debt while a director or within six months after he ceases to be a director.

Idem

(3) After execution has been so returned against the company, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

Rights of
director
who pays
the debt

(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment.

Director
holding
shares in
fiduciary
capacity

(5) No director holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all the liabilities imposed by this section. 1953, c. 19, s. 73.

74.—(1) Subject to subsections 2 and 3, the meetings of the shareholders, the board of directors and the executive committee shall be held at the place where the head office of the company is situate. ^{Place of meetings}

(2) Where the by-laws of the company so provide, the meetings of the board of directors and of the executive committee may be held at any place in or outside Ontario and the meetings of the shareholders may be held at any place in Ontario. ^{Exception}

(3) Where the letters patent or supplementary letters patent of the company so provide, the meetings of the shareholders may be held at one or more places outside Ontario designated therein. 1953, c. 19, s. 74. ^{Exception}

(4) This section does not affect the operation of any provision in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954, respecting the holding of the meetings of the shareholders at any place outside Ontario. 1954, c. 14, s. 13. ^{Where section not to apply}

75.—(1) Every shareholder, including a corporate shareholder, entitled to vote at meetings of shareholders may by instrument in writing appoint a proxy, who need not be a shareholder, to attend and act at the meeting in the same manner, to the same extent and with the same power as if the shareholder were present at the meeting. ^{Proxies}

(2) An instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney authorized in writing, or, if the appointor is a corporation, under the corporate seal or under the hand of an officer or attorney so authorized, and ceases to be valid one year from its date. ^{Execution}

(3) An instrument appointing a proxy shall contain the date thereof and the appointment and name of the proxy and may contain a revocation of a former instrument appointing a proxy, restrictions, limitations or instructions as to the manner in which the shares covered by the instrument are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a recognized stock exchange, or a restriction or limitation as to the number of shares covered by the instrument, but nothing else. ^{Contents}

(4) An instrument appointing a proxy may be revoked any time by an instrument in writing under the hand of the appointor or of his attorney authorized in writing, or, if the ^{Revocation}

appointor is a corporation, under the corporate seal or under the hand of an officer or attorney so authorized, and written notice of the revocation shall be deposited at the head office of the company or with the chairman of any meeting at which the instrument appointing the proxy may be used and shall be served on the proxy either personally or by mail addressed to his last known address, and, upon either of such deposits and upon either personal service or the expiration of two days of mailing, the instrument appointing the proxy is revoked.

Deposit
of proxies

(5) The directors may by resolution fix a time, not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting of the shareholders before which time instruments appointing proxies to be used at that meeting must be deposited with the company, and any period of time so fixed shall be specified in the notice calling the meeting. 1953, c. 19, s. 75; 1954, c. 14, s. 14.

Unauthor-
ized voting

R.S.O. 1960,
c. 363

76.—(1) A company may by by-law provide that any person who is a broker, broker-dealer, sub-broker-dealer or salesman within the meaning of *The Securities Act* shall not vote in person at a shareholders' meeting or appoint a proxy to vote at such meeting in respect of shares unless he is the beneficial owner of such shares or unless he is authorized so to do by the beneficial owner of such shares.

Offence

(2) Every person who contravenes a by-law passed under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 or to imprisonment for a term of not more than three months, or to both.

Effect of
contraven-
tion

(3) No proceeding, matter or thing at a shareholders' meeting is void or voidable by reason only of a contravention of a by-law passed under subsection 1. 1953, c. 19, s. 76.

Trustees,
etc., may
vote

77. An executor, administrator, committee of a mentally incompetent person, guardian or trustee, and, where a corporation is such executor, administrator, committee, guardian or trustee of a testator, intestate, mentally incompetent person, ward or *cestui que trust*, any person duly appointed a proxy for such corporation, shall represent the shares in his hands at all meetings of the shareholders of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the shares at all such meetings and may vote accordingly as a shareholder unless in the instrument creating the mortgage or hypothec he has expressly empowered the holder of such mortgage or hypothec to vote thereon, in which case only such holder or his proxy may vote in respect of such shares. 1953, c. 19, s. 77.

78. If shares are held jointly by two or more persons, any one of them present at a meeting of the shareholders of the company may, in the absence of the other or others, vote thereon, but, if more than one of them are present or represented by proxy, they shall vote together on the shares jointly held. 1953, c. 19, s. 78.

79.—(1) Subject to subsection 2 and in the absence of other provisions in that behalf in the by-laws of the company,

Joint
holders
of stock

Share-
holders'
meetings

- (a) notice of the time and place for holding a meeting of the shareholders shall, unless all the shareholders entitled to notice of the meeting have waived in writing the notice, be given by sending it to each shareholder entitled to notice of the meeting by pre-paid mail ten days or more before the date of the meeting to his last address as shown on the books of the company;
- (b) no shareholder in arrear in respect of any call is entitled to vote at a meeting;
- (c) all questions proposed for the consideration of the shareholders at a meeting of shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (d) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (e) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman;
- (f) unless a poll is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

Notice

(2) Except in the case of a company to which Part V applies, the by-laws of the company shall not provide for fewer than ten days notice of meetings of shareholders and shall not provide that notice may be given otherwise than individually.

Poll

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman directs. 1953, c. 19, s. 79.

Auditors.

80.—(1) The shareholders of a company at their first general meeting shall appoint one or more auditors to hold office until the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

Idem

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the next annual meeting and, if an appointment is not so made, the auditor in office shall continue in office until a successor is appointed.

Casual vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal

(4) The shareholders may, by resolution passed by at least two-thirds of the votes cast at a general meeting of which notice of intention to pass the resolution has been given, remove any auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Remuneration

(5) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment by Provincial Secretary

(6) If for any reason no auditor is appointed, the Provincial Secretary may, on the application of a shareholder, appoint one or more auditors for that year and fix the remuneration to be paid by the company for his or their services.

Notice

(7) Notice of the appointment of an auditor shall be given in writing to him forthwith after the appointment is made. 1953, c. 19, s. 80.

Qualification of auditor

81.—(1) Except as provided in subsection 2, no person shall be appointed as auditor of a company who is a director, officer or employee of that company or an affiliated company

or who is a partner or employee of any such director, officer or employee.

(2) Upon the unanimous vote of the shareholders of a ^{Private companies} private company present or represented at the meeting at which the auditor is appointed, a director, officer or employee of that company or a partner or employee of such director, officer or employee may be appointed as auditor of that company, if it is not a subsidiary company of a company incorporated by any legislative jurisdiction in Canada which is not a private company within the meaning of this Act.

(3) A person appointed as auditor under subsection 2 ^{Notice} shall indicate in his report to the shareholders on the annual financial statement of the company that he is a director, officer or employee of the company or a partner or employee of such director, officer or employee. 1953, c. 19, s. 81.

82.—(1) The auditor shall make such examination as will ^{Annual audit} enable him to report to the shareholders as required under subsection 2.

(2) The auditor shall make a report to the shareholders ^{Auditor's report} on the financial statement to be laid before the company at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the company and the results of its operations for the period under review.

(3) The auditor in his report shall make such statements ^{Idem} as he considers necessary,

- (a) if the company's financial statement is not in agreement with its accounting records;
- (b) if the company's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(4) The auditor of a company has right of access at all times ^{Right of access, etc.} to all records, documents, books, accounts and vouchers of the company and is entitled to require from the directors and officers of the company such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2.

Auditor
may attend
share-
holders'
meetings

(5) The auditor of a company is entitled to attend any meeting of shareholders of the company and to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. 1953, c. 19, s. 82.

Information
to be laid
before
annual
meeting

83.—(1) The directors shall lay before each annual meeting of shareholders,

(a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting, or commencing immediately after the period covered by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of,

(i) a statement of profit and loss for such period,

(ii) a statement of surplus for such period,

(iii) a balance sheet made up to the end of such period;

(b) the report of the auditor to the shareholders;

(c) such further information respecting the financial position of the company as the letters patent, supplementary letters patent or by-laws of the company require.

Contents of
financial
statement

(2) The statements referred to in the subclauses of clause *a* of subsection 1 shall comply with and be governed by sections 84 to 88, but it is not necessary to designate them the statement of profit and loss, statement of surplus and balance sheet.

Auditor's
report to be
read

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. 1953, c. 19, s. 83.

Statement
of profit
and loss

84.—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the company for the period covered by the statement and so as to distinguish severally at least,

(a) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;

- (b) income from investments in subsidiaries whose financial statements are not consolidated with those of the company;
- (c) income from investments in affiliated companies other than subsidiaries;
- (d) income from other investments;
- (e) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (f) provision for depreciation or obsolescence or depletion;
- (g) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (h) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense;
- (i) total remuneration of directors as such from the company and subsidiaries whose financial statements are consolidated with those of the company, including all salaries, bonuses, fees, contributions to pension funds and other emoluments;
- (j) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period.

(2) Notwithstanding subsection 1, items of the nature^{Notes} described in clauses *f*, *g* and *i* of subsection 1 may be shown by way of note to the statement of profit and loss. 1953, c. 19, s. 84.

85.—(1) The statement of surplus shall be drawn up so^{Statement of surplus} as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus.

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish the following items:^{Contributed surplus}

1. The balance of such surplus at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period including,

(a) the amount of surplus arising from the issue of shares or the reorganization of the company's issued capital, including *inter alia*,

(i) the amount of premiums received on the issue of shares at a premium,

(ii) the amount of surplus realized on the purchase for cancellation of shares; and

(b) donations of cash or other property by shareholders.

3. The balance of such surplus at the end of the financial period.

Earned
surplus

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:

i. The amount of the net profit or loss for the financial period.

ii. The amount of dividends declared on each class of shares.

iii. The amount transferred to or from reserves.

3. The balance of such surplus at the end of the financial period. 1953, c. 19, s. 85.

Balance
sheet

86.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the company as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.

2. Debts owing to the company from its directors, officers or shareholders, except debts of reasonable

amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.

3. Debts owing to the company, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the company.
4. Debts owing to the company, whether on account of a loan or otherwise, from affiliated companies other than subsidiaries.
5. Other debts owing to the company, segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the company, except those referred to in items 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Shares or securities of subsidiaries, stating the basis of valuation.
9. Shares or securities of affiliated companies other than subsidiaries, stating the basis of valuation.
10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and the disposition in the accounts of the company of any amounts added to or deducted from such assets on appraisal after the 30th day of April, 1954, and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off, (i) expenditures on account of future business; (ii) any expense incurred in connection with any issue of shares; (iii) any expense incurred in connection with any issue of securities, including any discount thereon; and (iv) any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible

assets and the amount, if any, by which the value of any such assets has been written up after the 30th day of April, 1954.

12. The aggregate amount of any outstanding loans under clauses *c*, *d* and *e* of subsection 2 of section 23.
13. Bank loans and overdrafts.
14. Debts owing by the company on loans from its directors, officers or shareholders.
15. Debts owing by the company to subsidiaries whether on account of a loan or otherwise.
16. Debts owing by the company to affiliated companies other than subsidiaries whether on account of a loan or otherwise.
17. Other debts owing by the company, segregating those that arose otherwise than in the ordinary course of its business.
18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
19. Dividends declared but not paid.
20. Deferred income.
21. Securities issued by the company, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
 - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares

issued for cash, shares issued for services and shares issued for other consideration; and

(b) where any shares have not been fully paid,

(i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and

(ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.

24. Contributed surplus.

25. Earned surplus.

26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period. 1953, c. 19, s. 86 (1); 1954, c. 14, s. 15.

(2) Explanatory information or particulars of any item^{Notes} mentioned in subsection 1 may be shown by way of note to the balance sheet. 1953, c. 19, s. 86 (2).

87.—(1) There shall be stated by way of note to the^{Notes to financial statement} financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period.

(2) Where applicable, the following matters shall be referred^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the company.
3. Contractual obligations that will require abnormal expenditures in relation to the company's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.

4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the company, stating the liability so secured, but it is not necessary to specify the asset on which the liability is secured.
7. Any default of the company in principal, interest, sinking fund or redemption provisions with respect to any issue of its securities or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a company has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. The total remuneration of directors as such of a holding company from subsidiaries whose financial statements are not consolidated with those of the holding company, including all salaries, bonuses, fees, contributions to pension funds and other emoluments.
11. In the case of a holding company, the aggregate of any shares in, and the aggregate of any securities of, the holding company held by subsidiary companies whose financial statements are not consolidated with that of the holding company.
12. The amount of any loans by the company, or by a subsidiary company, otherwise than in the ordinary course of business, during the company's financial period, to the directors or officers of the company.
13. Any restriction by the letters patent, supplementary letters patent or by-laws of the company or by contract on the payment of dividends that is significant in the light of the company's financial position.

Idem

(3) A note to a financial statement is a part of it. 1953, c. 19, s. 87.

88. Notwithstanding sections 84 to 87, it is not necessary to state in a financial statement any matter that in all the ^{Insignificant circum-}stances is of relative insignificance. 1953, c. 19, s. 88.

89.—(1) A company, in this section referred to as “the holding company”, may include in the financial statement ^{Consolidated financial statement} to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form.

(2) Where the assets and liabilities and income and expense ^{Idem} of any one or more subsidiaries of the holding company are not so included in the financial statement of the holding company,

(a) the financial statement of the holding company shall include a statement setting forth,

- (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding company,
- (ii) if there is only one such subsidiary, the amount of the holding company's proportion of the profit or loss of such subsidiary for the financial period coinciding with or ending in the financial period of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate profits less losses, or losses less profits, of all such subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding company,
- (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding company and the amount included therein as a provision for the loss or losses of such subsidiary or subsidiaries,
- (iv) if there is only one such subsidiary, the amount of the holding company's proportion of the undistributed profits of such subsidiary earned since the acquisition of the shares of such subsidiary by the holding company to

the extent that such amount has not been taken into the accounts of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate undistributed profits of all such subsidiaries earned since the acquisition of their shares by the holding company less its proportion of the losses, if any, suffered by any such subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding company,

- (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the company's own financial statement and is material from the point of view of its shareholders;
- (b) if for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding company, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
- (c) true copies of the latest financial statement of such subsidiary or subsidiaries shall be kept on hand by the holding company at its head office and shall be open to inspection by the shareholders of the holding company on request during the normal business hours of the holding company, but the directors of the holding company may by resolution refuse the right of such inspection if such inspection is not in the public interest or would prejudice the holding company or such subsidiary or subsidiaries, which resolution may, on the application of any such shareholder to the court, be set aside by the court;
- (d) if, in the opinion of the auditor of the holding company, adequate provision has not been made in the

financial statement of the holding company for the holding company's proportion,

- (i) where there is only one such subsidiary, of the loss of such subsidiary suffered since acquisition of its shares by the holding company, or
- (ii) where there is more than one such subsidiary, of the aggregate losses suffered by such subsidiaries since acquisition of their shares by the holding company in excess of its proportion of the undistributed profits, if any, earned by any of such subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor. 1953, c. 19, s. 89.

90.—(1) For the purposes of this Act, a company shall be deemed to be a subsidiary of another company if, but only if, Definitions: Subsidiary company

(a) it is controlled by,

- (i) that other, or
- (ii) that other and one or more companies each of which is controlled by that other, or
- (iii) two or more companies each of which is controlled by that other; or

(b) it is a subsidiary of a company that is that other's subsidiary.

(2) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that Holding company other is its subsidiary.

(3) For the purposes of this Act, one company shall be deemed to be affiliated with another company if, but only if, Affiliated company one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person.

(4) For the purposes of this section, a company shall be deemed to be controlled by another company or person or by two or more companies if, but only if, Control

- (a) shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of

directors are held, otherwise than by way of security only, by or for the benefit of such other company or person or by or for the benefit of such other companies; and

- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company. 1953, c. 19, s. 90.

Reserves

91. In a financial statement, the term "reserve" shall be used to describe only,

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the company for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. 1953, c. 19, s. 91; 1954, c. 14, s. 16; 1955, c. 9, s. 5.

**Approval of
financial
statement**

92. The financial statement shall be approved by the board of directors, such approval to be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign, and the auditor's report shall be attached to the financial statement or there shall be inserted at the foot of the balance sheet a reference to the report. 1953, c. 19, s. 92.

**Mailing of
financial
statement
to share-
holders**

93.—(1) A public company, other than a company to which Part V applies, shall, ten days or more before the date of the annual meeting, send by prepaid mail to each shareholder at his last address as shown on the books of the company a copy of the financial statement and a copy of the auditor's report.

(2) A shareholder of a private company is entitled to be ^{Financial statement, private companies} furnished by the company on demand with a copy of the documents mentioned in subsection 1.

(3) A company that fails to comply with subsection 1 or 2 ^{Offence} is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the company who authorizes, permits or acquiesces in any such failure is guilty of an offence and on summary conviction is liable to a like fine. 1953, c. 19, s. 93.

94.—(1) Except in the cases mentioned in this section, a ^{Subsidiaries not to hold shares of holding companies} company shall not be a shareholder of a company that is its holding company, and any allotment or transfer of shares of a company to its subsidiary company is void.

(2) This section does not apply to a subsidiary holding ^{Application} shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. 1953, c. 19, s. 94 (1, 2).

(3) This section does not prevent a subsidiary that on the ^{Exception} 30th day of April, 1954, held shares of its holding company from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding company or at meetings of any class of shareholders thereof. 1955, c. 9, s. 6.

(4) Subject to subsection 2, subsections 1 and 3 apply in ^{Nominees} relation to a nominee for a company that is a subsidiary as if the references in subsections 1 and 3 to such a company included references to a nominee for it. 1953, c. 19, s. 94 (4).

95.—(1) In this section, “arrangement” includes a reorgani- <sup>Interpre-
tation</sup> zation of the authorized capital of a company and includes, without limiting the generality of the foregoing, the consolidation of shares of different classes, the reclassification of shares of a class into shares of another class and the variation of the terms, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares of any class, and includes a reconstruction under which a company transfers or sells or proposes to transfer or to sell to another company the whole or a substantial part of its undertaking for a consideration consisting in whole or in part of shares or securities of the other company and in which it proposes to distribute a

part of such consideration among its shareholders of any class or to cease carrying on its undertaking or the part of its undertaking so transferred or sold or so proposed to be transferred or sold. 1953, c. 19, s. 95 (1); 1955, c. 9, s. 7.

Arrangements

(2) Where an arrangement is proposed between a company and its shareholders or a class or classes of them affecting the rights of such shareholders or class or classes under the company's letters patent or supplementary letters patent or by-laws, the court may, on application of the company or of a shareholder, order a meeting of the shareholders of the company or of the class or classes affected, as the case may be, to be held on twenty-one days notice, or such shorter time as the court directs, served in such manner as the court directs.

Contents of notice calling meeting

(3) Where a meeting of the shareholders or of any class or classes of shareholders is called under subsection 2, the notice calling the meeting shall contain a statement explaining the effect of the arrangement and in particular stating any interest of the directors of the company, whether as directors or as shareholders of the company or otherwise, and the effect thereon of the arrangement, in so far as it is different from the effect on the like interest of other persons.

Sanction by court

(4) If the shareholders of the company or of the class or classes affected, as the case may be, present in person or by proxy at the meeting, agree by at least three-fourths of the shares of each class represented to the arrangement either as proposed or as varied at the meeting, the arrangement may be sanctioned by the court and, if so sanctioned, the arrangement and any decrease or increase in the authorized capital and any provisions for the allotment or disposition thereof by sale or otherwise as therein set forth may be confirmed by supplementary letters patent and thereupon is binding on the company and on the shareholders of the company or on the class or classes of shareholders affected.

Notice to dissenters

(5) If dissenting votes are cast at the meeting and, notwithstanding such dissenting votes, the arrangement is agreed to by the shareholders or the class or classes represented in accordance with subsection 4 and unless the court in its discretion otherwise orders, the company shall notify each dissenting shareholder in such manner as the court directs of the time and place when application will be made to it for the sanction of the arrangement. 1953, c. 19, s. 95 (2-5), *revised*.

96.—(1) Any two or more companies, including a holding and subsidiary company, having the same or similar objects may amalgamate and continue as one company. Amalgamation

(2) The companies proposing to amalgamate may enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect and stating the name of the amalgamated company, the names, callings and places of residence of the first directors thereof and how and when the subsequent directors are to be elected with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated company, the authorized capital of the amalgamated company and the manner of converting the authorized capital of each of the companies into that of the amalgamated company. Agreement

(3) The agreement shall be submitted to the shareholders of each of the amalgamating companies at general meetings thereof called for the purpose of considering the agreement, and, if two-thirds of the votes cast at each such meeting are in favour of the adoption of the agreement, that fact shall be certified upon the agreement by the secretary of each of the amalgamating companies under the corporate seal thereof. Adoption by shareholders

(4) If the agreement is adopted in accordance with subsection 3, the amalgamating companies may apply jointly to the Lieutenant Governor for letters patent confirming the agreement and amalgamating the companies so applying, and on and from the date of the letters patent such companies are amalgamated and are continued as one company by the name in the letters patent provided, and the amalgamated company possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating companies. 1953, c. 19, s. 96. Joint application for letters patent

97.—(1) Where a company has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing in money, kind, specie or otherwise the property of the company or any part of it rateably among the shareholders according to their rights and interests in the company. Distribution of assets where winding up protracted

(2) The by-law is not effective until it has been confirmed by two-thirds of the votes cast at a meeting of the shareholders Confirmation

duly called for considering the by-law nor until it has been confirmed by the Lieutenant Governor in Council. 1953, c. 19, s. 97.

Private
companies
contraven-
ing privi-
leges, etc.

98.—(1) If a private company contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, it ceases to be entitled to the privileges and exemptions conferred on private companies under this Act and under *The Corporations Information Act*, and thereupon this Act and that Act apply to the company as if it were not a private company.

R.S.O. 1960,
c. 72

Relief

(2) The court, on being satisfied that any such contravention was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as the court deems proper, order that the company be relieved from the consequences mentioned in subsection 1.

Offence

(3) In addition to the consequences mentioned in subsection 1, every private company that contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, and every director or officer of the company who authorizes, permits or acquiesces in any such contravention, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 98.

Private
company,
rights of
dissenting
share-
holders

99.—(1) If, in the case of a private company, at a meeting of shareholders,

(a) a resolution passed by the directors authorizing the sale or disposition of the undertaking of the company or any part thereof as an entirety or substantially as an entirety is confirmed with or without variation by the shareholders; or

(b) a resolution passed by the directors authorizing an application for the issue of supplementary letters patent providing for the conversion of the company into a public company is confirmed with or without variation by the shareholders; or

- (c) an agreement for the amalgamation of the company with one or more other companies, whether public or private, is confirmed by the shareholders,

any shareholder who has voted against the confirmation of such resolution or agreement, as the case may be, may within two days after the date of the meeting give notice in writing to the company requiring it to purchase his shares.

(2) Within ninety days from the date of the completion of the sale or disposition or the issue of the supplementary letters patent or the letters patent, as the case may be, the company shall purchase the shares of every shareholder who has given notice under subsection 1. Company bound to purchase shares

(3) The company shall not purchase any shares under sub-section 2 if it is insolvent or if such purchase would render the company insolvent. Saving

(4) The price and terms of the purchase of such shares shall be as may be agreed upon by the company and the dissenting shareholder, but, if they fail to agree, the price and terms shall be as determined by the court on the application of the dissenting shareholder. Price of shares

(5) Any shares purchased under subsection 2 shall not be cancelled by reason only of such purchase, and may be sold by the company at such price and on such terms as the directors determine. Sale of shares

(6) If the sale or disposition is not completed or the supplementary letters patent or letters patent are not issued, the rights of the dissenting shareholder under this section cease and the company shall not purchase the shares of such shareholder under this section. 1953, c. 19, s. 99. Where sale not completed

PART III

CORPORATIONS WITHOUT SHARE CAPITAL

100. This Part, except where it is otherwise expressly provided, applies, Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late

Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and

(c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway. 1953, c. 19, s. 100.

Nature of
corpora-
tions

101. A corporation may be incorporated to which Part V or Part VI applies or that has objects that are of a patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic nature or that are of any other useful nature. 1953, c. 19, s. 101.

Application
for incor-
poration

102.—(1) The applicants for the incorporation of a corporation shall file with the Lieutenant Governor an application showing:

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the corporation to be incorporated.
3. The objects for which the corporation is to be incorporated.
4. The place in Ontario where the head office of the corporation is to be situate.
5. The names of the applicants who are to be the first directors of the corporation.
6. Any other matters that the applicants desire to have embodied in the letters patent.

Idem

(2) The applicants may ask to have embodied in the letters patent any provision that may be made the subject of a by-law of the corporation. 1953, c. 19, s. 102.

Classes of
membership

103. The letters patent, supplementary letters patent or by-laws of a corporation may provide for more than one class of membership and in that case shall set forth the designation of and the terms and conditions attaching to each class. 1953, c. 19, s. 103.

104. Upon incorporation of a corporation, each applicant becomes a member thereof. 1953, c. 19, s. 104. Applicants become members

105. A member shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the corporation or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation. 1953, c. 19, s. 105. Members not liable

106. Unless the letters patent, supplementary letters patent or by-laws of a corporation otherwise provide, there is no limit on the number of members of the corporation. 1953, c. 19, s. 106. Number of members

107.—(1) Subject to subsection 2, persons may be admitted to membership in a corporation by resolution of the board of directors, but the letters patent, supplementary letters patent or by-laws may provide that such resolution is not effective until it has been confirmed by the members in general meeting. Admission to membership

(2) The letters patent, supplementary letters patent or by-laws of a corporation may provide for the admission of members *ex officio*. 1953, c. 19, s. 107. Idem

108. Each member of each class of members of a corporation has one vote, unless the letters patent, supplementary letters patent or by-laws of the corporation provide that each such member has more than one vote or has no vote. 1953, c. 19, s. 108. Voting powers of members

109.—(1) A corporation, except a corporation to which Part V or VI applies, shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects and the letters patent shall so provide, and, where a company is converted into a corporation, the supplementary letters patent shall so provide. Not to be carried on for gain

(2) Nothing in subsection 1 prohibits a director from receiving reasonable remuneration and expenses for his services to the corporation as a director or prohibits a director or member from receiving reasonable remuneration and expenses for his services to the corporation in any other capacity, unless the letters patent, supplementary letters patent or by-laws otherwise provide. 1953, c. 19, s. 109. Exception

110. Subject to section 299, the letters patent, supplementary letters patent or by-laws of a corporation may provide Directors ex officio

for persons becoming directors *ex officio* in lieu of election. 1953, c. 19, s. 110.

Member-
ships not
transferable,
termination

111.—(1) Unless the letters patent or supplementary letters patent otherwise provide, the interest of a member in a corporation is not transferable and lapses and ceases to exist upon his death or when he ceases to be a member by resignation or otherwise in accordance with the by-laws of the corporation.

Where
transfer-
able ;

(2) Where the letters patent or supplementary letters patent provide that the interest of a member in the corporation is transferable, the by-laws shall not restrict the transfer of such interest.

Co-ops

(3) This section does not apply to corporations to which Part V applies. 1953, c. 19, s. 111.

By-laws

112.—(1) The directors of a corporation may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the admission of persons and unincorporated associations as members and as *ex officio* members and the qualification of and the conditions of membership;
- (b) the fees and dues of members;
- (c) the issue of membership cards and certificates;
- (d) the suspension and termination of memberships by the corporation and by the member;
- (e) the transfer of memberships;
- (f) the qualification of and the remuneration of the directors and the *ex officio* directors, if any;
- (g) the time for and the manner of election of directors;
- (h) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (i) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members, the requirement as to proxies, and the procedure in all things at members' meetings and at meetings of the board of directors;

- (j) the conduct in all other particulars of the affairs of the corporation.

(2) A by-law passed under subsection 1 and a repeal, ^{Confirmation} amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the members duly called for that purpose, is effective only until the next annual meeting of the members unless confirmed thereat, and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the members.

(3) The members may at the general meeting or the annual ^{Rejection} meeting mentioned in subsection 2 confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law is prejudicially affected by any such rejection, amendment or other dealing. 1953, c. 19, s. 112.

113.—(1) The directors of a corporation may pass by- ^{By-laws respecting delegates} laws providing for,

- (a) the division of its members into groups, either territorially or on the basis of common interest;
- (b) the election of some or all of its directors,
 - (i) by such groups on the basis of the number of members in each group, or
 - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members in each group;
- (d) the number and method of electing delegates;
- (e) the holding of meetings of delegates;
- (f) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members;
- (g) the holding of meetings of members or delegates territorially or on the basis of common interest.

Confirmation (2) No by-law passed under subsection 1 is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the members duly called for considering the by-law.

Voting (3) A delegate has only one vote and shall not vote by proxy.

Qualification of delegates (4) No person shall be elected a delegate who is not a member of the corporation.

Saving (5) No such by-law shall prohibit members from attending meetings of delegates and participating in the discussions at such meetings. 1957, c. 15, s. 1.

Supplementary letters patent **114.**—(1) A corporation may apply to the Lieutenant Governor for the issue of supplementary letters patent,

(a) extending, limiting or otherwise varying its objects;

(b) changing its name;

(c) varying any provision in its letters patent or prior supplementary letters patent;

(d) providing for any matter or thing in respect of which provision may be made in letters patent under this Act;

(e) converting it into a company;

(f) converting it into a corporation, with or without share capital, subject to Part V;

(g) making it not subject to Part V.

Authoriza-
tion (2) An application under clauses *a* to *d* of subsection 1 shall be authorized by a special resolution. 1953, c. 19, s. 113 (1, 2).

Idem (3) An application under clauses *e* to *g* of subsection 1 shall be authorized by resolution of the board of directors and confirmed in writing,

(a) by 100 per cent of the members; or

(b) by at least 95 per cent of the members,

but, in the case of confirmation under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each member

to his last address as shown on the books of the corporation and only if at the expiration of the twenty-one days none of the members has dissented in writing to the corporation. 1955, c. 9, s. 8.

(4) If the application is under clause *e, f* or *g* of subsection 1 and the corporation is to become a company, the application shall set forth the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, the par value of each share or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued, and, where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them, and the terms and conditions on which the members will become shareholders. 1953, c. 19, s. 113 (4); 1954, c. 14, s. 17 (2).

Contents of application for conversion into company

(5) An application under subsection 1 may be made only within six months after the resolution has been confirmed by the members.

Time for application

(6) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. 1953, c. 19, s. 113 (5, 6).

Special Act corporations excepted

115.—(1) A corporation may pass by-laws providing that, upon its dissolution and after the payment of all debts and liabilities, its remaining property or part thereof shall be distributed or disposed of to charitable organizations or to organizations whose objects are beneficial to the community.

Disposition of property on dissolution

(2) Such a by-law is not effective until it has been confirmed by two-thirds of the votes cast at a general meeting of the members duly called for that purpose. 1953, c. 19, s. 114 (1, 2).

Confirmation

(3) Notice of a by-law passed under this section shall be filed with the Provincial Secretary and published in *The Ontario Gazette* by the corporation within fourteen days after it has been confirmed. 1953, c. 19, s. 114 (3); 1955, c. 9, s. 9.

Filing and publication of notice

(4) Every corporation that fails to comply with subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine.

Offence

Where no
by-law

(5) In the absence of such by-law and upon the dissolution of the corporation, the whole of its remaining property shall be distributed equally among the members or, if the letters patent, supplementary letters patent or by-laws so provide, among the members of a class or classes of members. 1953, c. 19, s. 114 (4, 5).

Application
of Part II
provisions
to Part III
corporations

116.—(1) Clauses *a* to *p*, *s*, *u* and *v* of subsection 1 and subsection 2 of section 22, sections 58 to 60, 66, 68 to 70, 72 to 75, 79 and 80, subsection 1 of section 81, section 82, subsections 1 and 3 of section 83 and section 96 apply *mutatis mutandis* to corporations to which this Part applies, and in so applying them the word “company” means “corporation” and the word “shareholder” means “member”.

Co-ops

(2) Subsection 1 of section 22 and sections 69, 83 to 88, 91 and 92 apply *mutatis mutandis* to corporations to which Part V applies, and in so applying them the word “company” means “corporation” and the word “shareholder” means “member”.

Insurers

(3) Sections 83 to 86, 91 and 92 and subsections 1 and 3 of section 93 apply *mutatis mutandis* to corporations to which Part VI applies and in so applying them the word “company” means “corporation” and the word “shareholder” means “member”. 1953, c. 19, s. 115; 1954, c. 14, s. 18.

PART IV

MINING COMPANIES

Interpre-
tation

117. In this Part, “company” means a company to which this Part applies. 1953, c. 19, s. 116.

Application

118. This Part applies,

- (a) to every mining company incorporated before the 1st day of July, 1907;
- (b) to every mining company that was made subject to a predecessor of this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent; and
- (c) to every mining company made subject to this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent. 1954, c. 14, s. 19.

119.—(1) The shares of a company shall be with par value. Par value
shares only

(2) Subsection 1 does not apply to shares authorized before Exception the 30th day of April, 1954. 1953, c. 19, s. 118.

120.—(1) Unless the letters patent, supplementary letters Issue of
shares at
discount patent or by-laws otherwise provide, a company may issue its shares at a discount.

121. (2) Notwithstanding subsection 1, preference shares shall At par not be issued at a discount.

(3) Where shares are to be issued at a discount, the rate Rate of
discount of discount shall be specified in the resolution of the directors allotting such shares. 1953, c. 19, s. 119.

121. No shareholder of a company who holds shares that Share-
holders'
liability were validly issued at a discount before the 30th day of April, 1954, or that are validly issued at a discount on or after the 30th day of April, 1954, is personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. 1953, c. 19, s. 120; 1954, c. 14, s. 20.

122. A company shall have upon every share certificate Share
certificates issued by it distinctly written or printed in red ink, where such certificates are issued with respect to shares subject to call, the words "SUBJECT TO CALL" or, where issued with respect to shares not subject to call, the words "NOT SUBJECT TO CALL". 1953, c. 19, s. 121; 1954, c. 14, s. 21.

PART V

CO-OPERATIVE CORPORATIONS

123. In this Part, except in subsections 3 and 5 of section Interpre-
tation 125, "corporation" or "company" means a corporation or company, as the case may be, to which this Part applies. 1953, c. 19, s. 122.

124.—(1) This Part applies, Application

- (a) to every corporation that was made subject to a predecessor of this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent; and

- (b) to every corporation made subject to this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent. 1954, c. 14, s. 22.

Act to
apply

(2) Except where inconsistent with the provisions of this Part, the other provisions of this Act apply to a corporation to which this Part applies. 1953, c. 19, s. 123 (2).

Corporate
name

125.—(1) The corporate name of a corporation shall include the word “co-operative” as part thereof.

Abbreviation

(2) Where a corporation or any director, officer, employee, shareholder or member uses the name of the corporation, the word “co-operative” may be abbreviated to “co-op”.

Prohibition

(3) No person not being a corporation to which this Part applies shall use in Ontario a name that includes the word “co-operative” or any abbreviation or derivation thereof whether or not the word, abbreviation or derivation is used in or in conjunction with the name.

Offence

(4) A person who contravenes subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

Exceptions

(5) Subsection 3 does not apply to a corporation incorporated by or under the authority of the Parliament of Canada, to a corporation licensed under Part IX, to a corporation incorporated under the laws of Ontario before the 12th day of April, 1917, or to a corporation to which *The Credit Unions Act* applies. 1953, c. 19, s. 124; 1954, c. 14, s. 23.

R.S.O. 1960,
c. 79

Share
capital

126.—(1) The authorized capital of a company incorporated on or after the 1st day of June, 1949, shall consist of one or more classes of shares to be designated as co-operative or co-op preference shares or as co-operative or co-op common shares, as the case may be, and each class shall have a par value of \$5 or any multiple of \$5 not exceeding \$100.

Share
certificates

(2) A share certificate issued on or after the 30th day of April, 1954, shall,

- (a) bear upon its face the name of the company, the words “incorporated as a co-operative company and subject to Part V of *The Corporations Act* (Ontario)” and a statement of the authorized capital, but, where some but not all of the shares of a class are purchased for redemption or some but not all of the

preference shares of a class are converted, redeemed or purchased for cancellation, it is not necessary to change such statement of the authorized capital;

(b) state the information required by clauses *b* and *c* of subsection 1 of section 45;

(c) state that the shares represented by the certificate are not transferable without the authorization of the directors;

(d) set forth the provisions of section 135;

(e) state that the dividend, if any, to which the holder of a share may become entitled shall not exceed 8 per cent per annum of the amount paid up thereon; and

(f) state that the company may by by-law limit the amount to be distributed for each share on the dissolution of the company to the amount paid up on such share together with declared and unpaid dividends. 1953, c. 19, s. 125.

127.—(1) The capital of corporations without share capital may be in the form of loans from members, called “member loans”, and such loans may be in such amounts, payable on demand or at such times and without interest or with interest at a rate not exceeding 6 per cent per annum, as the by-laws provide.

(2) A corporation may borrow money from its shareholders or members in such amounts payable on demand or at such times and either without interest or with interest at a rate not exceeding 6 per cent per annum, as the by-laws provide. 1953, c. 19, s. 126.

128. Where a member of a corporation without share capital dies or does not transact any business with the corporation for a period of two years, the directors may terminate the membership, and upon such termination the corporation shall pay any money owing to the member. 1953, c. 19, s. 127.

129.—(1) No share of a company shall be transferred unless authorized by the board of directors.

(2) No membership in a corporation without share capital shall be transferred unless authorized by the board of directors. 1953, c. 19, s. 128.

Voting

130.—(1) No individual member or shareholder of a corporation shall vote by proxy. 1953, c. 19, s. 129 (1).

Idem

(2) An individual member or shareholder of a corporation has only one vote. 1954, c. 14, s. 24.

Voting by
corporate
members or
shareholders

(3) A corporate member or shareholder may appoint under its corporate seal one of its directors or officers to attend and vote on its behalf at meetings of members or shareholders and such director or officer has only one vote. 1953, c. 19, s. 129 (3).

Qualifi-
cation of
directors

131. No person shall hold office as a director of a corporation unless he is a member or shareholder thereof or a director or officer of a corporate member or shareholder thereof, and, where a director or a corporation of which he is a officer or director ceases to be a member or shareholder, he thereupon ceases to be a director. 1953, c. 19, s. 130.

Reserve
fund and
dividends

132. A corporation may by by-law provide that, before any distribution of surplus arising from the business of the corporation in each fiscal year is made, the corporation may,

(a) set aside reserve funds;

(b) provide for the payment of dividends on the share capital at a rate not to exceed 8 per cent per annum of the amount paid up thereon. 1953, c. 19, s. 131.

Distribution
of net
surplus

133.—(1) Subject to section 132, the surplus arising from the business of the corporation in each fiscal year shall be allocated, credited or paid to the members or shareholders in proportion to the business done by each member or shareholder with or through the corporation, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the member or shareholder or by the corporation from or on behalf of or to the member or shareholder, or to the corporation, whether as principal or as agent of the member or shareholder or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

Idem

(2) The corporation may by by-law provide that part of the surplus may be allocated, credited or paid to non-members or non-shareholders at the same or at lesser rates than to members or shareholders.

(3) The amount that is allocated, credited or paid to members, shareholders, non-members or non-shareholders in each fiscal year shall be known as the patronage return. Patronage return

(4) The corporation may by by-law provide that, where the value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from or on behalf of or to any member, shareholder, non-member or non-shareholder in any year does not exceed \$50, or such lesser amount as is specified in the by-law, no patronage return shall be allocated, credited or paid to such member, shareholder, non-member or non-shareholder 1953, c. 19, s. 132. Limitation of patronage return

134.—(1) A company may by by-law provide that in each fiscal year the whole, or such part as the directors may determine, of the patronage return of each shareholder shall be applied to the purchase for the shareholder of a stated number of unissued shares of the company or a stated number of issued shares of the company, if obtainable. Investment of patronage return

(2) Where a company has enacted a by-law under subsection 1 and the whole or part of the patronage return of a shareholder is required to be invested in issued shares, the company shall mail a written notice to such shareholder stating the number of shares to be purchased by him. Notice

(3) Unless within thirty days from the date of mailing of the notice referred to in subsection 2 the shareholder required to purchase issued shares has presented for transfer to himself the number of shares that he is required to purchase, the company may on behalf of such shareholder, Purchase of shares on behalf of shareholder required to purchase

- (a) purchase the required number of shares from shareholders who are willing to sell shares;
- (b) pay out of the patronage return of such shareholder the purchase price;
- (c) transfer such shares to the shareholder; and
- (d) issue and forward to such shareholder a certificate representing such shares.

(4) A corporation may enact by-laws requiring its shareholders or members to lend to it the whole, or such part as the directors may determine, of the patronage returns to which they may become entitled in each fiscal year, upon such terms and at such rate of interest not exceeding 6 per cent per annum, as the by-laws provide. Compulsory borrowing

Idem

(5) No shareholder shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof or issued shares when no such shares are available for purchase.

Idem

(6) Where the corporation is insolvent, no member or shareholder shall be required under this section to lend his patronage return and no shareholder shall be required to purchase shares of the corporation.

Idem

(7) This section does not prevent a member or shareholder from receiving so much of his patronage return as has not been appropriated to loans to the corporation or to the purchase of shares of the corporation in accordance with the by-laws. 1953, c. 19, s. 133.

Purchase of
shares by
company

135.—(1) Subject to subsections 2 and 3, a company,

- (a) with the consent of a shareholder, may purchase for redemption all or part of the shares held by such shareholder upon payment of such an amount, not exceeding the par value of the shares, as is agreed upon; and
- (b) when a corporate shareholder is about to be dissolved or a shareholder has failed for a period of two years to transact any business with the company, may purchase for redemption the shares of such shareholder or require the transfer of such shares to another person at the book value or par value, whichever is the lesser.

Prohibition
re purchase
for re-
demption

(2) No company,

- (a) shall use for the purchase of shares for redemption in a fiscal year an amount in excess of 50 per cent of the accumulated reserve funds;
- (b) shall purchase for redemption in a fiscal year more than 10 per cent of the shares outstanding at the beginning of the year;
- (c) shall purchase shares for redemption where the company is insolvent or so as to render the company insolvent or so as to reduce the number of shareholders to fewer than ten.

Re-issue
prohibited

(3) Where a share is purchased for redemption by a company, it shall be thereby cancelled and the authorized and issued capital shall be thereby decreased.

(4) Where shares are subject to purchase for redemption and the company gives to the shareholder written notice of purchase in which the shareholder is requested to surrender the share certificates, if any, for cancellation and the shareholder fails to comply within the time specified, not being less than thirty days after the giving of such notice, the company may pay the purchase price into a chartered bank to the credit of the shareholder and cancel the shares. 1953, c. 19, s. 134.

136.—(1) On any distribution of the property of a corporation without share capital, member loans and patronage returns that are lent to the corporation rank after the ordinary debts.

(2) A corporation may enact by-laws providing that, upon the dissolution of the corporation and after the payment of all debts and liabilities, including any declared and unpaid dividends and the amount paid up on outstanding shares, if any, the remaining property of the corporation or part thereof may be distributed or disposed of,

- (a) equally among the members or shareholders irrespective of the number of shares held by a shareholder;
- (b) among the members or shareholders at the time of dissolution on the basis of patronage returns accrued to such members or shareholders during the five fiscal years immediately preceding the dissolution or after the date of incorporation; or
- (c) to charitable organizations or to organizations whose objects are beneficial to the community. 1953, c. 19, s. 135.

137.—(1) A corporation may pass by-laws providing for,

- (a) the division of its members or shareholders into groups, either territorially or on the basis of common interest;
- (b) the election of some or all of its directors,
 - (i) by such groups on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both, or
 - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;

- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
- (d) where all of the members or shareholders are corporations, the election of delegates and alternative delegates to represent such corporations on the basis of the number of members or shareholders in each corporation or the volume of business done with each corporation, or both;
- (e) the number and method of electing delegates;
- (f) the holding of meetings of delegates;
- (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members or shareholders;
- (h) the holding of meetings of members, shareholders or delegates territorially or on the basis of common interest;
- (i) the payment of expenses of delegates attending meetings. 1953, c. 19, s. 136 (1); 1957, c. 15, s. 2.

Voting

- (2) A delegate has only one vote and shall not vote by proxy.

Qualifica-
tion of
delegates

- (3) No person shall be elected a delegate who is not a member or shareholder of the corporation or a director, officer, member or shareholder of a corporate member or shareholder of the corporation. 1953, c. 19, s. 136 (2, 3).

Saving

- (4) No such by-law shall prohibit members or shareholders from attending meetings of delegates and participating in the discussions at such meetings. 1953, c. 19, s. 136 (4); 1954, c. 14, s. 25.

By-laws to
be con-
firmed

- 138.**—(1) A by-law of a corporation passed under this Part is not effective until it has been confirmed by a vote of two-thirds of the members or shareholders present or represented at a meeting duly called for considering it.

By-laws a
contract

- (2) A by-law of the corporation binds the corporation and its members or shareholders to the same extent as if the by-law had been signed and sealed by each member or share-

holder and contained covenants on behalf of each member or shareholder, his heirs, executors, administrators or assigns to conform thereto. 1953, c. 19, s. 137.

139.—(1) A corporation shall,

Duties:

- (a) file in the office of the Provincial Secretary, within ^{file} thirty days after confirmation by its members or ^{by-laws} shareholders, copies of all its by-laws certified under its corporate seal;
- (b) deliver a copy of its by-laws to a member or share- ^{deliver} holder when requested in writing so to do; ^{copies of by-laws}
- (c) transmit within ten days after each annual meeting ^{transmit} to the Provincial Secretary a copy of its financial ^{statements} statement and a copy of its auditor's report; ^{to Provincial Secretary}
- (d) send to every person entitled to notice of its annual ^{deliver} meeting with the notice of the annual meeting a copy ^{statements} of its financial statement and a copy of its auditor's report; and
- (e) upon the request in writing of a member or share- ^{Idem} holder, send to such member or shareholder a copy of its financial statement and a copy of its auditor's report. 1953, c. 19, s. 138 (1); 1957, c. 15, s. 3.

(2) Clause *c* of subsection 1 does not apply to a corporation ^{Exception} registered under *The Prepaid Hospital and Medical Services* ^{R.S.O. 1960, c. 304} Act.

(3) A corporation that fails to comply with subsection 1 ^{Offence} is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. 1953, c. 19, s. 138 (2, 3).

140.—(1) A corporation has power to carry on, encourage ^{Educational and advisory} and assist educational and advisory work relating to co- ^{work} operatives and the co-operative ideal. 1953, c. 19, s. 139.

(2) A corporation may enact by-laws authorizing the deduc- ^{Support of} tion from the patronage return allocated, credited or paid to ^{educational} each of its members or shareholders of an amount not exceeding ^{work} \$1 a year and authorizing the payment of the amount deducted to a union or federation of corporations for educational purposes. 1954, c. 14, s. 26.

Provision
for
relief

141. The Lieutenant Governor in Council may declare that a corporation is no longer subject to this Part and change such corporation's name, if it appears to the Lieutenant Governor in Council that 50 per cent or more in value of the business of the corporation during its last fiscal year was transacted with persons or corporations that were neither members nor shareholders of the corporation. 1953, c. 19, s. 140.

PART VI

INSURANCE CORPORATIONS

Interpre-
tation
R.S.O. 1960,
c. 190

142. In this Part, unless the context otherwise requires, the words and expressions defined in section 1 of *The Insurance Act* have the same meaning as in that Act. 1953, c. 19, s. 141.

Application
of Part

143.—(1) This Part applies to all applications for incorporation of insurers intending to undertake contracts of insurance in Ontario, and to such insurers when incorporated, and to all insurers incorporated before the 30th day of April, 1954, under the laws of Ontario.

Application
of Act

(2) Except where inconsistent with this Part and except as provided in subsection 3, the other provisions of this Act apply to all such insurers.

Exception

(3) Sections 83 to 91 do not apply to insurers undertaking and transacting life insurance. 1953, c. 19, s. 142 (1-3).

Incorporation
of
joint stock
insurance
companies

144.—(1) A joint stock insurance company may be incorporated for the purpose of undertaking and transacting any class of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*.

Notice

(2) Applicants for incorporation shall, immediately before the application is made, publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required by the Provincial Secretary, publish elsewhere notice of such intention.

Notice to
Superin-
tendent

(3) Applicants for incorporation shall also give at least one month's notice to the Superintendent of their intention to apply for incorporation. 1953, c. 19, s. 143.

Interpre-
tation

145.—(1) In this section, "money received on account of shares" includes money received as premium on shares.

(2) If the company undertakes life insurance, the authorized capital shall be \$500,000 or more. Capital stock of life companies

(3) If the company undertakes any one or more classes of insurance other than life, the authorized capital shall be \$300,000 or more. 1953, c. 19, s. 144 (1-3). Other cases

(4) The authorized capital shall be divided into shares of \$100 each, but, where not less than \$200,000 of the authorized capital has been paid in in cash, the shares or any class of shares may be redivided into shares having a par value of \$5 or a multiple thereof, or an additional class or classes of shares having a par value of \$5 or a multiple thereof may be created. 1954, c. 14, s. 28. Par value of shares

(5) All money received on account of shares shall be paid into a branch or agency in Ontario of a chartered bank of Canada or into a registered trust company in trust for the proposed company, and no money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and an election of directors held thereat. Application of money received on account of shares

(6) A subscription for shares made before the granting of a licence under *The Insurance Act* shall contain the stipulation that all money received on account of shares will be returned to the subscribers without any deduction for promotion, organization or other expenses, in case the insurer fails to procure such a licence. Return of subscriptions on failure to secure licence R.S.O. 1960, c. 190

(7) A subscription for shares shall contain the stipulation that no sum will be used or paid, before or after incorporation, for commission, promotion or organization expenses in excess of a percentage, not exceeding 15, of the amount of money received on account of shares. 1953, c. 19, s. 144 (5-7). Limit of percentage of subscriptions for charges

146.—(1) In subsection 2, “surplus to policyholders” means surplus of assets over liabilities excluding issued capital shown in the annual financial statement of the company at the end of the next preceding calendar year as filed with and approved by the Superintendent. Interpretation

(2) Where a company undertaking life insurance has insurance in force of less than \$25,000,000 and has a surplus to policyholders of more than \$500,000, the directors may pass a by-law authorizing an application to the Lieutenant Governor for the issue of supplementary letters patent decreasing its authorized, subscribed and paid-in capital by not more than 50 per cent. Reduction of capital of life insurance companies

New par value to be declared

(3) The by-law and the supplementary letters patent shall declare the new par value of the shares and the liability of the shareholders on partially paid-in shares.

Application, when to be made

(4) The application shall not be made until the by-law has been confirmed by a vote of the shareholders present or represented by proxy at a general meeting duly called for considering it and holding not less than two-thirds of the votes cast at such meeting.

Surplus not to be decreased by dividends to shareholders

(5) The supplementary letters patent shall contain a provision that any surplus created by reason of such decrease of capital will not be decreased by dividends subsequently declared to shareholders. 1953, c. 19, s. 145.

Ss. 176 (2-4), 178, 179, applicable to company undertaking life insurance

147. A company undertaking life insurance may, by resolution passed at a special general meeting called for such purpose, provide that subsections 2, 3 and 4 of section 176 and sections 178 and 179 apply to such company. 1953, c. 19, s. 146.

Amalgamation
R.S.O. 1960, c. 190

148. Subject to the approval of the agreement of amalgamation under *The Insurance Act*, section 96 of this Act applies to the amalgamation of two or more joint stock insurance companies. 1953, c. 19, s. 147.

Amalgamation, etc., of mutual corporation and joint stock corporation

149.—(1) Subject to *The Insurance Act*, a mutual corporation incorporated under the laws of Ontario transacting life insurance may amalgamate with or transfer its contracts to or reinsure such contracts with any licensed insurer transacting life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Confirmation of agreement

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the board of directors may enter into any such agreement on behalf of the mutual corporation through its president and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the agreement has been confirmed by a vote of the majority of the members present or duly represented by proxy at a general or special general meeting of the mutual corporation and unless the agreement has been approved by the Lieutenant Governor in Council under *The Insurance Act*.

Agreement binding on all members of mutual corporation

(3) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, or in any policy or certificate or other document evidencing a contract issued by a mutual corporation, or in the constitution or laws

of or certificates issued by a fraternal society whose contracts have been assumed by the mutual corporation or for which the mutual corporation has become responsible, the terms of any such agreement so confirmed and approved are valid and binding as of the date stipulated in the agreement upon all the members of the mutual corporation and upon their beneficiaries and legal representatives and upon all persons deriving legal rights from any such member or beneficiary so long as they do not involve any new or increased rates of contribution or premium, and the claims of all persons under any such contract of insurance shall be restricted to such benefits only as are continued in accordance with the terms of such agreement, and such contracts shall be deemed to be amended accordingly.

(4) Upon the coming into force of any such agreement, the reinsurer, in complying with the requirements of *The Insurance Act* in respect of the valuation of contracts so reinsured or transferred, is entitled to base its valuation upon such tables of mortality and upon such rates of interest as would have been authorized by law for such mutual corporation if no such agreement had been made. 1953, c. 19, s. 148.

Standard of valuations
R.S.O. 1960,
c. 190

150.—(1) A mutual or cash-mutual corporation with guarantee capital stock may be incorporated for the purpose of undertaking and transacting any class of insurance for which a mutual or cash-mutual insurance corporation may be licensed under *The Insurance Act*.

Incorporation of mutual and cash-mutual insurance corporations

(2) A mutual insurance corporation without guarantee capital stock may be incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan upon agricultural property, weather insurance or live stock insurance. 1953, c. 19, s. 149.

Idem

151.—(1) Ten freeholders in any municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a mutual fire insurance corporation without guarantee capital stock to undertake contracts of fire insurance on the premium note plan upon agricultural property.

Incorporation of mutual fire insurance corporation without guarantee capital stock

(2) The meeting shall be called by advertisement, stating the time, place and object of the meeting, and the advertisement shall be published once in *The Ontario Gazette* and at least once a week for three consecutive weeks in a newspaper published in the county or district in which the municipality is situate.

Advertisements calling meeting

Subscription
book

(3) If thirty freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance corporation, they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property in Ontario may sign their names and enter the sum for which they respectively bind themselves to effect insurance in the corporation.

When
meeting may
be called

(4) When one hundred or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the corporation amounting in the aggregate to \$250,000 or more, a meeting shall be called as hereinafter provided.

How meeting
to be called

(5) When the subscription has been completed, any ten of the subscribers may call the first meeting of the proposed corporation at such time and place in the municipality as they determine by sending a printed notice by mail, addressed to each subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.

Contents of
notice

(6) The notice and advertisement shall state the object of the meeting and the time and place at which it is to be held.

Election of
directors

(7) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the words "fire" and "mutual", shall be adopted, an acting secretary appointed, a board of directors elected as hereinafter provided and a central and general accessible place in the municipality, or in a municipality adjacent thereto, named, at which the head office of the company is to be located.

Quorum of
meeting

(8) The presence of at least twenty-five of the subscribers is necessary to constitute a valid meeting.

First
meeting of
directors

(9) As soon as convenient after the meeting, the acting secretary shall call a meeting of the board of directors for the election from among themselves of a president and a vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer or a manager and for the transaction of such other business as may be brought before the meeting.

Certain
documents
to be
delivered

(10) With the application for incorporation, the applicants shall produce to the Provincial Secretary, certified as correct under the hands of the chairman and secretary,

(a) a copy of the minutes of the meeting, including all resolutions respecting the objects of the proposed

corporation, its name and the location of its head office;

(b) a copy of the subscription book;

(c) a list showing the names and addresses of the directors elected and of the officers appointed; and

(d) such further information as the Provincial Secretary requires.

(11) There shall also, for verification, be produced to the Provincial Secretary, if requested, the originals of such documents. Production of originals

(12) The Provincial Secretary shall ascertain and determine whether the proceedings for the incorporation have been taken in accordance with this section and whether the subscriptions are *bona fide* and by persons possessing property to insure. 1953, c. 19, s. 150 (1-12). Provincial Secretary to ascertain correctness of proceedings

(13) The powers of a mutual fire insurance corporation without guarantee capital stock shall be limited to undertaking contracts of fire insurance upon agricultural property, or property that is not mercantile or manufacturing or hazardous, on the premium note plan in accordance with *The Insurance Act*, but may be extended by supplementary letters patent to include, in the case of property that it insures against fire, any class or classes of insurance set out in section 27 of *The Insurance Act*, but, if such powers are extended to include weather insurance, all liability for loss in excess of \$100 on any risk covered by weather insurance shall be re-insured with a licensed weather insurance company. Powers R.S.O. 1960, c. 190

(14) The reinsurance requirement under subsection 13 with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27 of *The Insurance Act*. 1954, c. 14, s. 29. Application of proviso in subs. 13

152.—(1) Ten owners of live stock in any municipality may call a meeting of the owners of live stock to consider whether it is expedient to establish a live stock insurance corporation upon the mutual plan. Incorporation of mutual live stock insurance corporation without guarantee capital stock

Organi-
zation

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the municipality, being owners of live stock in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of live stock in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more.

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual live stock insurance corporation incorporated under this section to undertaking contracts of insurance on the premium note plan against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the insured or by the invasion of an enemy or by insurrection. 1953, c. 19, s. 151.

Incorporation of
mutual
weather in-
surance cor-
poration
without
guarantee
capital stock

153.—(1) Ten owners of agricultural property in any municipality may call a meeting of the owners of agricultural property to consider whether it is expedient to establish therein a weather insurance corporation upon the mutual plan.

Organi-
zation

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the municipality, being owners of agricultural property in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more. 1953, c. 19, s. 152 (1, 2).

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual weather insurance corporation without guarantee capital stock incorporated under this section to undertaking contracts of insurance on the premium note plan on any kind of agricultural property or property that is not mercantile or manufacturing against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. 1953, c. 19, s. 152 (3); 1954, c. 14, s. 30.

154. No cash-mutual insurance corporation shall be incorporated unless formed with guarantee capital stock as herein-after provided. 1953, c. 19, s. 153. Cash-mutual corporation

155. Sections 156 to 161 apply only to cash-mutual fire insurance corporations licensed under *The Insurance Act* before the 1st day of January, 1914. 1953, c. 19, s. 154. Application of ss. 156-161 R.S.O. 1960, c. 190

156.—(1) A cash-mutual insurance corporation that had a share capital on the 1st day of January, 1925, with the assent of the Lieutenant Governor in Council, may from time to time increase its share capital to such an amount as he deems expedient. Increase of share capital

(2) Notice of an application to the Lieutenant Governor in Council under this section shall be published in at least four consecutive issues of *The Ontario Gazette*. 1953, c. 19, s. 155. Notice of application

157. A subscriber to such share capital, on allotment of one or more shares, becomes a shareholder of the corporation. 1953, c. 19, s. 156. Subscribers to become shareholders

158. No insurance on the wholly cash plan makes the insured a member of the corporation or liable to contribute or pay any sum to the corporation, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or gives him any right to participate in the profits or surplus funds of the corporation. 1953, c. 19, s. 157. Insurance on cash plan not to constitute membership

159. The net annual profits and gains of the corporation, not including therein any premium notes, shall be applied in the first place to pay a dividend on the share capital at a rate not exceeding 10 per cent per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the corporation. 1953, c. 19, s. 158. Dividends

160.—(1) A corporation that has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company upon making application in the manner provided in this Act for the incorporation of joint stock insurance companies. When cash-mutual company may become a joint stock company

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and, if the corporation has share capital, by a vote of at least two-thirds of the issued capital stock represented at an annual general meeting or at a special general meeting and by three-fourths in number of the directors of the corporation in writing signed by them. Approval of members and shareholders

Notice of
application

(3) Notice of the intention to make the application and of the consideration thereof at such meeting shall be published in at least four consecutive issues of *The Ontario Gazette* and in a newspaper published in the county or district in which the head office of the corporation is situate at least once a week for four consecutive weeks before the holding of the meeting.

Priority of
members in
subscribing
stock

(4) A person who is a member of the corporation on the day of the meeting is entitled to priority in subscribing to the capital stock of the corporation for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. 1953, c. 19, s. 159.

Vesting of
assets and
preservation
of liabilities

161. A corporation formed under section 160 is answerable for all liabilities of the corporation from which it has been formed and may sue and be sued under its new corporate name, and the assets and property of the old corporation are vested in the new corporation from the date of its formation. 1953, c. 19, s. 160.

Mutual
insurance
corporation
with
guarantee
capital stock

162.—(1) A mutual or cash-mutual insurance corporation may be formed with an authorized guarantee capital stock of not less than \$300,000 and not more than \$500,000.

Number of
shares

(2) The guarantee capital stock shall be divided into shares of \$100 each. 1953, c. 19, s. 161.

Dividends

163. The holders of the guarantee capital stock are entitled to a semi-annual dividend of not more than 4 per cent per annum on their respective shares if there is sufficient surplus in excess of the guarantee capital stock outstanding, after providing for all liabilities and reserves, to pay such dividend. 1953, c. 19, s. 162.

Payment of
loss out of
guarantee
capital

164. The guarantee capital shall be applied to the payment of losses only when the corporation has exhausted its assets exclusive of uncollected premiums and, when thus impaired, the directors may make good the whole or any part of it by assessments upon the contingent funds of the corporation at the date of the impairment. 1953, c. 19, s. 163.

Right to
vote

165. Shareholders and members of such corporations are subject to the provisions of this Act relative to their right to vote as applied to shareholders and policyholders in mutual or cash-mutual corporations incorporated without guarantee capital stock. 1953, c. 19, s. 164.

166.—(1) The guarantee capital stock shall be retired ^{Retirement of guarantee capital stock} when the profits accumulated equal 2 per cent of the insurance capital stock in force.

(2) The guarantee capital stock may be reduced or retired ^{Idem} by vote of the policyholders of the corporation with the assent of the Superintendent if the net assets of the corporation, above its reinsurance reserve and all other claims and obligations, exclusive of the guarantee capital stock, for the two years last preceding and including the date of its last annual statement, are not less than 25 per cent of the guarantee capital stock.

(3) Notice of the intention of the corporation to reduce or ^{Notice} retire the guarantee capital stock shall be published in at least four consecutive issues of *The Ontario Gazette*, not less than thirty days before the meeting when such action may be taken, and elsewhere if so required by the Superintendent. 1953, c. 19, s. 165.

167. No mutual or cash-mutual insurance corporation ^{Distribution of guarantee capital stock} with a guarantee capital stock, that has ceased to do new business, shall divide among its shareholders any part of its assets or guarantee capital, except income from investments, until it has performed or cancelled its policy obligations and upon proof to the Superintendent that such policy obligations have been performed or cancelled. 1953, c. 19, s. 166.

168. Sections 169 to 184 apply only to mutual and cash- ^{Mutual and cash-mutual insurance corporations, application of ss. 169-184} mutual fire insurance corporations and to mutual live stock corporations and mutual weather insurance corporations. 1953, c. 19, s. 167.

169.—(1) A person insured under a policy issued by a ^{Insured deemed member} corporation shall, from the date upon which the insurance becomes effective, be deemed a member of such corporation.

(2) No member is liable in respect of any claim or demand ^{Member's liability} against the corporation beyond the amount unpaid on his premium note.

(3) A member may, with the consent of the directors, ^{Member withdrawing} withdraw from the corporation on such terms as the directors ^{R.S.O. 1960, c. 190} lawfully prescribe, subject to *The Insurance Act*. 1953, c. 19, s. 168.

170.—(1) A meeting of the shareholders and members ^{Annual meeting} for the election of directors shall be held within the first two months of every year at such time and place as the by-laws of the corporation prescribe.

Annual
statement

(2) Before the election, the annual statement for the year ending on the previous 31st day of December shall be presented and read. 1953, c. 19, s. 169.

Failure to
elect
directors

171. If an election of directors is not made on the day on which it ought to have been made, the corporation shall not for that cause be dissolved, but the election may be held on a subsequent day at a meeting to be called by the directors or as otherwise provided by the by-laws of the corporation, and in such case the directors then in office continue to hold office until their successors are elected. 1953, c. 19, s. 170.

Notice of
annual or
special
meetings

172.—(1) Notice of every annual or special general meeting of the corporation shall be sent by mail to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least seven days before the day of the meeting.

Power of
directors

(2) The directors may call a general meeting of the corporation at any time.

Annual
statement to
be sent to
members

(3) The directors shall, at least seven days before the day of the annual meeting, send to each member by mail the annual statement for the year ending on the previous 31st day of December, which shall be certified by the auditors and shall be in the form prescribed by the regulations made under section 77 of *The Insurance Act*. 1953, c. 19, s. 171.

R.S.O. 1960,
c. 190

Voting
powers of
members

173.—(1) A member of the corporation is entitled at all meetings of the corporation to the number of votes in proportion to the amount of insurance held by him according to the following scale: under \$1,500, one vote; \$1,500 or over but under \$3,000, two votes; and \$3,000 or over, three votes; but no member is entitled to vote while in arrear for any assessment or cash payment due by him to the corporation.

Where policy
made to two
or more
persons

(2) Where a policy on the premium note plan is made to two or more persons, one only is entitled to vote, and the right of voting belongs to the one first named on the register of policyholders if he is present or, if not present, to the one who stands second, and so on.

Where prop-
erty
insured by
trustee board

(3) Where property is insured by a trustee board, any member of the board or its secretary-treasurer duly appointed in writing pursuant to its resolution may vote on its behalf. 1953, c. 19, s. 172.

Right of
mere
applicants

174. No applicant for insurance is competent to vote or otherwise take part in the corporation's proceedings until

his application has been accepted by the directors. 1953, c. 19, s. 173.

175.—(1) No person is eligible to be or shall act as a director unless he is a member of the corporation and insured therein for the time he holds office, Qualifications of directors

(a) in the case of a live stock insurance corporation, to an amount not less than \$200; and

(b) in the case of every other corporation, to an amount not less than \$800.

(2) Where the corporation has a share capital, not less than two-thirds of the directors shall also be holders of shares, each to an amount not less than \$1,000, upon which all calls have been paid. Where corporation has a share capital

(3) The president or director of a member corporation that has the qualifications that would qualify an individual to be a director is eligible to be a director of the corporation. Representation of corporations

(4) Where a partnership has the qualifications that would qualify an individual to be a director of the corporation, one member of the partnership is eligible to be a director of the corporation. 1953, c. 19, s. 174. Representation of partnerships

176.—(1) The board shall consist of six, nine, twelve or fifteen directors, to be determined by resolution passed at the meeting held under subsection 5 of section 151. Number of directors

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the corporation called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual meeting is given to the secretary of the corporation at least one month before the holding of the meeting, but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen. Increase or decrease in number

(3) Where such a notice has been given to the secretary, that fact shall be stated in the notice of the annual general meeting. Notice of proposed change

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. 1953, c. 19, s. 175. Copy of resolution and list of directors to be filed

Filing
by-laws for
remunera-
tion of
directors

177. At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it is lawful to pass by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. 1953, c. 19, s. 176.

Retirement
of directors
in rotation

178. One-third of the directors shall retire annually, in rotation, and, at the first meeting of the directors or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. 1953, c. 19, s. 177.

Annual
election
to fill
vacancies

179. At every annual general meeting thereafter, one-third of the total number of directors shall be elected for a period of three years to fill the places of the retiring directors, who are eligible for re-election. 1953, c. 19, s. 178.

Manager
may be a
director and
be paid
salary

180. The manager of the corporation, although he has not the qualifications required by section 175, may be a director of the corporation and may be paid an annual salary under a by-law passed as provided by section 177. 1953, c. 19, s. 179.

Certain
persons not
eligible as
directors

181.—(1) No agent or paid officer, or officer of the bankers of the corporation, or person in the employment of the corporation, other than the manager, is eligible to be elected as a director or shall interfere in the election of directors.

Fees of
director
taking
application

(2) Nothing in this section applies to a person receiving applications for insurance or taking to his own use the customary application, survey or policy fee or prevents a director from so doing: 1953, c. 19, s. 180.

Election of
directors

182.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in person, or in the case of a corporation or partnership by a director, officer or member authorized in writing to represent it.

Ballot

(2) The election shall be by ballot.

Case of a
tie at an
election

(3) If two or more members have an equal number of votes so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

(4) The directors shall, at their first meeting after any such election, elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. 1953, c. 19, s. 181. Election of president and vice-president

183. If a vacancy occurs among the directors, during the term for which they have been elected, by death, resignation, ceasing to have the prescribed qualification, insolvency or by absence without previous leave of the directors from three successive regular meetings, which shall *ipso facto* create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled and, in the case of a board limited to a number of directors exceeding six, may be filled until the next annual general meeting by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. 1953, c. 19, s. 182. Interim vacancies

184.—(1) A majority of the directors constitutes a quorum for the transaction of business, and, in the case of an equality of votes at any meeting, the question passes in the negative. Quorum of directors

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. 1953, c. 19, s. 183. Recording dissent

185.—(1) Every officer or person appointed or elected to any office concerning the receipt or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and security so furnished and then subsisting shall be produced to the auditors at the annual audit. Security of accountants

(2) The security given by the treasurer or other officer having charge of the money of the corporation shall not be less than \$3,000 and shall consist of the bond of a licensed guarantee insurance or surety company. 1953, c. 19, s. 184. Minimum

186. Subject to the approval of the agreement of amalgamation under *The Insurance Act*, section 96 applies *mutatis mutandis* to the amalgamation of two or more mutual or cash-mutual insurance corporations. 1953, c. 19, s. 185. Amalgamation R.S.O. 1960, c. 190

187.—(1) Subject to subsection 5, a mutual or cash-mutual insurance corporation may form a permanent reserve fund to consist of such part of the net profits as is from time to time set aside by the directors for that purpose or Reserve fund of mutual or cash-mutual insurance corporation

to be made up by annual assessments for that purpose not exceeding, for any single assessment, 10 per cent on the premium notes held by the corporation until the total of the fund reaches 2 per cent of the corporation insurance in force.

Investment
and income

(2) The fund shall be held for the security of the insured and is subject to the provisions of this Act relating to the investment of the funds of insurance companies.

Income part
of net
profits

(3) The income from the fund shall be included in the general receipts of the company and constitutes a part of the net profits, if any.

Use of
reserve fund

(4) The fund so accumulated shall be used for the payment of losses and expenses when the cash funds of the company in excess of an amount equal to its liabilities, including guarantee capital, if any, are exhausted, and, when the fund is drawn upon the allocation of profits or assessments as aforesaid, may be renewed or continued until the limit of accumulation is reached.

Reduction
of fund
prohibited

(5) The fund shall not be reduced by the payment of dividends to shareholders or members or by reduction of current premiums below the limit of 2 per cent of the insurance in force hereinbefore mentioned, but it may be increased beyond such limit if the company so desires.

Application
of section

(6) This section does not apply to corporations undertaking life insurance nor to purely mutual fire insurance corporations insuring risks other than mercantile or manufacturing, upon the premium note plan, nor to purely mutual live stock or weather insurance companies, carrying on business on the premium note plan. 1953, c. 19, s. 186.

Incorporation
of
fraternal
societies

188.—(1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than seventy-five, of twenty-one or more years of age, five of whom apply therefor, constituting such persons and any others who have signed the membership book, and persons who thereafter become members in the fraternal society thereby created, a corporation for the purposes of undertaking any class of insurance for which a fraternal society may be

R.S.O. 1960, c. 190, licensed under *The Insurance Act*.

Notice

(2) The applicants for incorporation, immediately before the application, shall publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply and shall also, if so required, publish elsewhere notice of such intention.

(3) The application for the incorporation of a fraternal society shall show, Particulars of application

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate;
- (c) the name in full, the place of residence and the calling of each of the applicants who are to be its first trustees or managing officers;
- (d) such other information as the Provincial Secretary requires.

(4) The application shall be accompanied by the original membership book or list containing the signatures duly certified of at least seventy-five persons who thereby agree to become members of the fraternal society if and when incorporated, by a copy of the proposed by-laws of the fraternal society and by evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained. 1953, c. 19, s. 187. Other documents

189. Within thirty days after the issue of the letters patent and upon due notice to all members of the society, an organization meeting of the society shall be held at which the by-laws shall be adopted and the officers of the society elected. 1953, c. 19, s. 188. Organization meeting

190.—(1) Where a fraternal society licensed under *The Insurance Act* has its head office elsewhere than in Ontario, the grand or other provincial body of the lodges or a majority of the lodges in Ontario may apply to the Lieutenant Governor for the issue of a charter and, from the time of the issue of the letters patent, the applicants become a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*. Incorporation of foreign fraternal society R.S.O. 1960, c. 190

(2) Subsection 1 of section 188 applies to an incorporation under this section. Application of s. 188 (1)

(3) Before the issue of the letters patent, evidence shall be produced to the Provincial Secretary that the approval of the Superintendent to the application has been secured. 1953, c. 19, s. 189. Approval of Superintendent

191. An auxiliary or local subordinate body or branch of a licensed fraternal society may be separately incorporated by like proceedings. 1953, c. 19, s. 190. Incorporation of local branch

Amalgamation or re-insurance by fraternal society
R.S.O. 1960, c. 190

192.—(1) Subject to *The Insurance Act*, any fraternal society may amalgamate with any other fraternal society or transfer all or any portion of its contracts to or reinsure them with any insurer licensed for the transaction of life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Agreement for amalgamation, etc.

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the governing executive authority may enter into any such agreement on behalf of the society through its principal officer and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the principle of amalgamation, transfer or reinsurance has been approved and that the agreement has been confirmed by a vote of the majority of the members present or duly represented at a general or special meeting of the supreme legislative or governing body of the society duly called. 1953, c. 19, s. 191.

Confirmation of amalgamation

193. Subsection 4 of section 96 applies *mutatis mutandis* to the amalgamation of two or more fraternal societies. 1953, c. 19, s. 192.

Incorporation of mutual benefit society

194.—(1) A mutual benefit society may be incorporated for the purpose of undertaking any class of insurance for which a mutual benefit society may be licensed under *The Insurance Act*, and the provisions of this Part relating to fraternal societies apply *mutatis mutandis* to the incorporation of mutual benefit societies and to such societies when incorporated.

Name

(2) The proposed name of a mutual benefit society incorporated under this Part shall include the words "mutual benefit". 1953, c. 19, s. 193.

Pension fund and employees' mutual benefit societies, application of ss. 196-207

195. Sections 196 to 207 apply to pension fund and employees' mutual benefit societies incorporated under this Part. 1953, c. 19, s. 194.

Interpretation

196. In this section and in sections 197 to 207,

- (a) "parent corporation" means a corporation any of whose officers establish a pension fund or employees' mutual benefit society under this Part;
- (b) "society" means a pension fund or employees' mutual benefit society incorporated under this Part;

- (c) "subsidiary corporation" means a corporation, where-ever incorporated, at least 75 per cent of whose issued common shares are owned by a parent corporation. 1953, c. 19, s. 195.

197.—(1) The Lieutenant Governor may in his discretion, ^{Charter by letters patent} issue a charter to any number of persons, not fewer than five, of twenty-one or more years of age, two of whom are officers of a corporation legally transacting business in Ontario who apply therefor, constituting such persons and the employees of such corporation and of its subsidiary corporations who join the society and those who replace them from time to time a pension fund or employees' mutual benefit society corporation.

(2) The application for the incorporation of a pension fund ^{Contents of application} or employees' mutual benefit society shall show,

- (a) its proposed name;
- (b) the name of its parent corporation;
- (c) the place in Ontario where its head office is to be situate;
- (d) the name in full and place of residence and calling of each of the applicants; and
- (e) the names, not fewer than five, of those who are to be its first directors.

(3) Notice of the application for incorporation of a society ^{Notice} shall be published in at least four consecutive issues of *The Ontario Gazette* and the notice shall state,

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate; and
- (c) the name of its secretary. 1953, c. 19, s. 196.

198. The first directors have power to call the first meeting ^{First meeting} of the society and at such meeting directors may be elected and by-laws may be passed under this Act, and a copy of such by-laws shall be filed with the Provincial Secretary within two weeks after the passing thereof, and copies of subsequent by-laws in amendment thereof, in addition thereto or diminution therefrom, shall also be filed with the Provincial Secretary within two weeks after the passing thereof. 1953, c. 19, s. 197.

Directors

199.—(1) The affairs of the society shall be administered by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications and for such period as are determined by the by-laws, but at the first meeting of the society five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner with such remuneration and under such provisions touching their powers and duties as are established by the by-laws.

Management
of fund by
trust
company

(2) The board of directors may by by-law entrust the whole or a part of the fund of the society to a trust company licensed under the law of Ontario and may delegate to such trust company all or any of its powers and discretions relating to the custody and management of the fund. 1953, c. 19, s. 198.

Interpre-
tation

200.—(1) In this section, “dependants” means the wives, husbands and children under twenty-one years of age, including adopted children, of officers or employees within the meaning of this section.

Powers and
objects of
society

(2) After its incorporation, every pension fund and employees’ mutual benefit society has the power, by means of voluntary contribution or otherwise as its by-laws provide, to form a fund, and may invest, hold and administer it and from and out of it may,

- (a) provide for the support and payment of pensions to officers and employees of the parent corporation and its subsidiary corporations incapacitated by age or infirmity or who cease to be employed by the parent or a subsidiary corporation;
- (b) upon the death of such officers or employees, pay pensions, annuities or gratuities to their widows and children or other surviving relatives or legal representatives in such manner as the by-laws specify;
- (c) provide for the payment of benefits to officers and employees of the parent or a subsidiary corporation incapacitated by illness, accident or disability;
- (d) provide for the payment of benefits to former officers and employees of the parent or subsidiary corporation who are retired on a pension paid by the parent or subsidiary corporation and who are incapacitated by illness, accident or disability;
- (e) provide for the payment of benefits to officers and employees of the parent or a subsidiary corporation

in respect of illness, accident or disability that has incapacitated dependants of such officers or employees; and

- (f) upon the death of such officers or employees, pay a funeral benefit in such manner as the by-laws specify. 1953, c. 19, s. 199.

201.—(1) A pension fund and employees' mutual benefit society has all corporate powers necessary for its purposes and may pass by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of, all the rights, powers and duties of, Power to pass by-laws

- (a) the society;
- (b) its individual members;
- (c) the officers and employees of the parent corporation and its subsidiary corporations;
- (d) the widows and children or other surviving relatives, or the personal representatives of such officers and employees; and
- (e) the patent corporation.

(2) Every such society may also make by-laws as aforesaid Additional by-laws for,

- (a) the formation and maintenance of the fund;
- (b) the management and distribution of the fund;
- (c) the enforcement of any penalty or forfeiture in the premises; and
- (d) the government and ordering of all business and affairs of the society.

(3) No such by-law is effective unless it has been sanctioned by the board of directors of the parent corporation. 1953, c. 19, s. 200. Sanction of parent corporation

202. All the powers, authority, rights, penalties and forfeitures whatever of the society or of its members, officers or employees, or of such widows and children or other surviving relatives or legal representatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws are defined and limited. 1953, c. 19, s. 201. By-laws defining rights and remedies of beneficiaries, etc.

Revenue

203. All the revenue of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects of the fund and to no other purpose. 1953, c. 19, s. 202.

Contribution
by parent
corporation

204. The parent corporation may contribute annually or otherwise to the funds of the society by a vote of its directors or its shareholders. 1953, c. 19, s. 203.

Prohibition
against
member
assigning
interest

205. The interest of a member in the funds of the society is not transferable or assignable by way of pledge, hypothecation, sale, security or otherwise. 1953, c. 19, s. 204.

Special
audit

206.—(1) Where it is shown to the satisfaction of the Provincial Secretary that the accounts of a society have been materially or wilfully falsified, or where there is filed in the office of the Provincial Secretary a requisition for audit bearing the signatures, addresses and callings of at least 25 per cent of the members of the society and alleging in a sufficiently particular manner to the satisfaction of the Provincial Secretary specific fraudulent or illegal acts, or the repudiation of obligations, or insolvency, the Provincial Secretary may appoint one or more accountants or actuaries who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Provincial Secretary.

Security for
costs

(2) Where an audit is requested, the persons requesting it shall, with their requisition, deposit with the Provincial Secretary security for the costs of the audit in such sum as he fixes, and, where the facts alleged in the requisition appear to the Provincial Secretary to have been partly or wholly disproved by the audit, he may pay the costs thereof partly or wholly out of the deposit.

Duty to
facilitate
special audit

(3) The society, its officers and servants shall facilitate the making of such special audit so far as it is in their power and shall produce for inspection and examination by the person so appointed such books, securities and documents as he requires.

Expense of
special audit

(4) Subject to subsection 2, the expense of such special audit shall be borne by the society, and the auditor's account, when approved in writing by the Provincial Secretary, shall be paid by the society forthwith. 1953, c. 19, s. 205.

Return to
Provincial
Secretary

207. A society formed under this Act shall at all times when thereunto required by the Provincial Secretary make a full return of its assets and liabilities and of its receipts

and expenditures for such period and with such details and other information as the Provincial Secretary requires. 1953, c. 19, s. 206.

208.—(1) In subsection 2, except in clause *o* thereof, ^{Interpre-}
“insurer” shall be deemed to mean only a joint stock insurance
company, fraternal society, mutual insurance corporation with
guarantee capital stock or a cash-mutual insurance corporation,
and, in clause *o* of subsection 2, “insurer” shall be deemed to
mean only a joint stock insurance company or a cash-mutual
insurance corporation.

(2) Subject to subsections 3 to 15, an insurer incorporated ^{Powers of}
under the law of Ontario may invest its funds, or any portion ^{Ontario}
thereof, in the purchase of, ^{insurers:}

- (a) the bonds, debentures, stocks or other evidences of ^{government}
indebtedness of or guaranteed by the government of ^{securities}
- (i) Canada, Australia, Ceylon, India, New Zealand, Pakistan, the Union of South Africa, or the United Kingdom, or any province or state thereof, or Southern Rhodesia or the Republic of Ireland,
- (ii) a colony of the United Kingdom,
- (iii) the United States of America or a state thereof, or
- (iv) a country in which the insurer is carrying on business, or a province or state thereof, or a colony, dependency, territory or possession thereof in which the insurer is carrying on business;
- (b) the bonds, debentures or other evidences of in- ^{municipal,}
debtedness of or guaranteed by a municipal cor- ^{etc.,}
poration in Canada or elsewhere where the insurer ^{securities}
is carrying on business, or of a school corporation in Canada or elsewhere where the insurer is carrying on business, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such province and collectable by the municipalities in which such property is situate;
- (c) the bonds, debentures or other securities issued or ^{bonds, etc.,}
guaranteed by the International Bank for Recon- ^{issued or}
struction and Development established by the ^{guaranteed}
^{by Inter-}
^{national}
^{Bank}

R.S.C. 1952,
c. 19

Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures or other securities are payable in the currency of Canada, the United Kingdom, any member of the Commonwealth or the United States of America;

bonds
secured by
Dominion
payment

- (d) the bonds or debentures of a corporation that are secured by the assignment to a trust corporation in Canada of an annual payment that the Government of Canada has agreed to make, where such annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the bonds or debentures maturing for payment in the year in which the annual payment is made;

bonds
secured by
provincial
subsidy

- (e) the bonds or debentures issued by a charitable, educational or philanthropic corporation where annual subsidies, sufficient to meet the interest as it falls due on the bonds or debentures and to meet the principal amount of the bonds or debentures on maturity, are, by virtue of a general or private Act of a province of Canada, payable by or under the authority of the province to a trust corporation as trustee for the holders of the bonds or debentures;

debentures
secured by
statutory
charge upon
real estate,
plant or
equipment

- (f) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by statutory charge upon real estate or upon the plant or equipment of the corporation used in the transaction of its business, if interest in full has been paid regularly for a period of at least ten years immediately preceding the date of investment in such bonds, debentures or other evidences of indebtedness upon the securities of that class of the corporation then outstanding;

revenue
bonds

- (g) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to the law of a country in which the insurer is carrying on business, or of a province or state thereof, or of a colony, dependency, territory or possession thereof in which the insurer is carrying on business, to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity or gas services

or facilities and, for any of these purposes, to levy, impose or make taxes, rates, fees or other charges that

- (i) may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operating, maintenance and debt service charges, or
 - (ii) in the case of an authority constituted by an Act of a national government, are fixed or authorized by law or subject to the approval of the government or a minister or ministry thereof or of a body responsible to the government or the minister or ministry;
- (h) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by ^{bonds, etc., secured by mortgage} a mortgage, charge or hypothec to a trustee upon any, or upon any combination, of
- (i) real estate,
 - (ii) the plant or equipment of a corporation that is used in the transaction of its business, or
 - (iii) bonds, debentures or other evidences of indebtedness or shares of a class or classes authorized by this subsection as investments,
- and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments does not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;
- (i) obligations or certificates issued by a trustee to ^{equipment trust certificates of railways} finance the purchase of transportation equipment for a railway corporation incorporated in Canada or in the United States of America, if the obligations or certificates are fully secured by
- (i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and
 - (ii) a lease or conditional sale thereof by the trustee to the railway corporation;

debentures

(j) the bonds, debentures or other evidences of indebtedness

- (i) of a corporation that has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares or a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in its capital stock account during the year in which the dividend was paid, or
- (ii) of or guaranteed by a corporation where its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporations shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

preferred
shares

(k) the preferred shares of a corporation that has paid

- (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

- (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in its capital stock account during the year in which the dividend was paid;
- (l) the fully-paid common shares of a corporation that, ^{common shares} in each year of a period of seven years ended less than one year before the date of investment, has paid a dividend upon its common shares of at least 4 per cent of the average value at which the shares were carried in its capital stock account during the year in which the dividend was paid;
- (m) ground rents, mortgages or hypothecs on real estate ^{real estate mortgages} in Canada or elsewhere where the insurer is carrying on business, but the amount paid for the mortgage or hypothec together with the amount of indebtedness under any mortgage or hypothec on the real estate ranking superior to the mortgage or hypothec in which the investment is made shall not exceed 60 per cent of the value of the real estate covered thereby;
- (n) mortgages or hypothecs on real estate or leaseholds ^{guaranteed or insured real estate mortgages} in Canada or elsewhere where the insurer is carrying on business or bonds or notes secured by such mortgages or hypothecs, notwithstanding that the mortgage or hypothec exceeds the amount that the insurer is otherwise authorized to invest, if the excess is guaranteed or insured by the government or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country; or
- (o) real estate or leaseholds for the production of income ^{real estate for the production of income} in Canada or elsewhere where the insurer is carrying on business, either alone or jointly with any other insurer, if
 - (i) a lease of the real estate or leasehold is made to, or guaranteed by, a corporation that has met the dividend requirements specified in subclause i of clause j,
 - (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least

85 per cent of the amount invested by the insurer in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

- (iii) the total investment of an insurer in any one parcel of real estate or in any one leasehold does not exceed one-half of 1 per cent of the book value of the total assets of the insurer,

and the insurer may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold,

lending
funds:

and may lend its funds or any portion thereof on the security of,

authorized
securities

- (p) any of the bonds, debentures or other evidences of indebtedness, shares or other securities in which the insurer may invest its funds under this subsection, but the amount of the loan, together with the amount invested therein, if any, shall not exceed in the aggregate the amount that might be invested therein under this section;

real estate
mortgages

- (q) real estate or leaseholds for a term of years or other estate or interest in real estate in Canada or elsewhere where the insurer is carrying on business, but the amount of the loan together with the amount of indebtedness under any mortgage or hypothec on the real estate or interest therein ranking superior to the loan shall not exceed 60 per cent of the value of the real estate or interest therein, subject to the exception that an insurer may accept as part payment for real estate sold by it a mortgage or hypothec for more than 60 per cent of the sale price of the real estate; or

guaranteed
or insured
real estate
mortgages

- (r) real estate or leaseholds in Canada or elsewhere where the insurer is carrying on business, notwithstanding that the loan exceeds the amount that the insurer is otherwise authorized to lend, if, to the extent of the excess, the mortgage or hypothec thereon securing the loan is guaranteed or insured by the government or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country.

(3) Where an insurer owns securities of a corporation and where as a result of a *bona fide* arrangement for the reorganization of the corporation or for the amalgamation of the corporation with another corporation such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not eligible as investments under subsection 2, the insurer may accept such bonds, debentures or other evidences of indebtedness or shares, but they shall be allowed as an asset of the insurer, in the annual report prepared by the Superintendent for the Minister, only for a period of five years after their acceptance, or such further period as the Lieutenant Governor in Council determines, unless it is shown to the satisfaction of the Lieutenant Governor in Council that such bonds, debentures or other evidences of indebtedness or shares are not inferior in status or value to the securities for which they have been substituted or unless they become eligible as investments under subsection 2.

Securities
received on
reorganiza-
tion or
amalgama-
tion

(4) A joint stock insurance company or a cash-mutual insurance corporation may make investments or loans not authorized by subsection 2, including investments in real estate or leaseholds, subject to the following:

Other
assets

1. Investments in real estate or leaseholds under this subsection shall be made only for the production of income, and may be made by the insurer in Canada or elsewhere where the insurer is carrying on business either alone or jointly with any other insurer, and the insurer may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of an insurer under this subsection in any one parcel of real estate or in any one leasehold shall not exceed one-half of 1 per cent of the book value of the total assets of the insurer.
2. This subsection shall be deemed not to enlarge the authority conferred by subsection 2 to invest in mortgages or hypothecs and to lend on the security of real estate or leaseholds.
3. The total book value of the investments and loans made under this subsection and held by the insurer, excluding those that are or at any time since acquisition have been eligible apart from this subsection, shall not exceed 3 per cent of the book value of the total assets of the insurer.

Real estate
for the
production
of income

Exceptions

Limitation

Life
insurance
policies

(5) An insurer licensed to transact the business of life insurance may invest or lend its life insurance funds or any portion thereof in the purchase of or on the security of policies of life insurance issued by the insurer or by any other insurer licensed to transact the business of life insurance in Ontario.

National
Housing
Acts

(6) Notwithstanding anything in this Act or in any other Act, an insurer incorporated under the law of Ontario,

1953-54,
c. 23 (Can.)

(a) may lend its funds or any portion thereof on the security of real estate pursuant to the *National Housing Act, 1954* (Canada) or any amendments thereto, or may make loans on the security of real estate or leaseholds or other estate or interest therein in excess of 60 per cent of the value of the real estate or interest therein that forms the security for such loan or in excess of the amount that may be loaned in accordance with that Act or any amendments thereto, where the amount of the excess is guaranteed by the Lieutenant Governor in Council or by a municipality under *The Housing Development Act*;

R.S.O. 1960,
c. 182

(b) may, if it is incorporated for the purpose of under-taking life insurance, cause to be formed, or may join with one or more life insurance corporations in forming one or more institutional holding companies and one or more institutional housing corporations as defined in *The National Housing Act, 1944* (Canada), and may invest its funds in shares or debentures of such holding companies and in shares of such housing corporations to an aggregate amount that, when added to the aggregate amount invested by such insurer under clause c, does not exceed 5 per cent of its total assets in Canada allowed by the Superintendent; and

1944-45,
c. 46 (Can.)

(c) may, if it is incorporated for the purpose of under-taking life insurance, invest its funds to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Superintendent in any other classes or types of investment pursuant to the *National Housing Act, 1954* (Canada) or any amendments thereto, including the purchase of land, the improvement thereof, construction of buildings thereon, and the management and disposal of such land and buildings.

Limitation
of invest-
ment in
common
shares

(7) The total book value of the investments of an insurer in common shares shall not exceed 15 per cent of the book value of the total assets of the insurer.

(8) The total book value of the investments of a joint stock insurance company or a cash-mutual insurance corporation in real estate or leaseholds for the production of income under this section shall not exceed 5 per cent of the book value of the total assets of the insurer.

Limitation
of invest-
ment in
real estate
for the
production
of income

(9) An insurer shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default.

No invest-
ment in
securities
in default

(10) All investments and deposits of the funds of an insurer shall be made in its corporate name, and no director or other officer thereof and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of such insurer, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that, if he is a policyholder, he is entitled to all the benefits accruing under the terms of his contract.

Investments
in corporate
name only

(11) No insurer shall,

Prohibitions
and
restrictions

- (a) invest in or loan its funds upon the security of its own shares or the shares of a company transacting the business of insurance; or
- (b) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Canada, invest money in any one security or make a total investment in any one corporation including the purchase of its shares or other securities, the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of more than 10 per cent of its funds; or
- (c) except as to securities of or guaranteed by the Government of Canada, or the government of a province of Canada, or a municipal corporation in Canada, make any investment the effect of which will be that such insurer will hold more than 10 per cent of the total issue of shares of any one company; or
- (d) lend any of its funds to a director or officer thereof or to the wife or a child of such director

or officer except, in the case of an insurer undertaking contracts of life insurance, on the security of its own policies, nor shall an insurer lend any of its funds to a company if more than one-half of the shares of the capital stock of the company are owned by a director or officer of the insurer or the wife or a child of a director or officer, or by any combination of such persons; or

- (e) subscribe to or participate in or employ the funds of the insurer in any underwriting for the purchase or sale of securities or property of any kind, nor shall any director or officer, except for the *bona fide* purpose of protecting investments already made by the insurer, enter into any transaction for such purchase or sale on account of such insurer, jointly with any other person, firm or corporation, but this clause shall not be deemed to prohibit the subscription for bonds or securities permitted by this section as a *bona fide* permanent investment on behalf of any such insurer.

Interest in
forming
other
companies

- (12) Except for the *bona fide* purpose of protecting investments previously made by it, and subject to the approval of the Lieutenant Governor in Council, no insurer shall, nor shall its directors or officers or any of them on its behalf, under colour of an investment of the insurer's funds, directly or indirectly be employed, concerned or interested in the formation or promotion of any other corporation, but nothing in this subsection shall be deemed to prohibit insurers investing their funds in securities of a new corporation as provided in subsection 2.

Additional
security to
secure repay-
ment of
liabilities

- (13) An insurer may take any additional securities of any nature to further secure repayment of any liability thereto, or to further secure the sufficiency of any of the securities in or upon which it is by this section authorized to invest or lend any of its funds.

By-laws to
prevail

- (14) Where the constitution, by-laws or rules of an insurer prescribe the securities in which its funds may be invested, nothing in this section enlarges the power of investment.

Disposal of
unauthorized
investments

- (15) The Superintendent may request an insurer to dispose of and realize any of its investments acquired after the 1st day of May, 1928, and not authorized by this section, and such insurer shall within sixty days after receiving such request absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by such insurer for such investments, the directors of

the insurer are jointly and severally liable for the payment to such insurer of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment and is able to do so, enters on the minutes of the board of directors his protest against such investment, and, within eight days thereafter, gives notice of his protest by registered letter to the Superintendent, such director thereby and not otherwise exonerates himself from such liability. 1953, c. 19, s. 207; 1954, c. 14, s. 31; 1955, c. 9, s. 10.

209. Insurers, other than those mentioned in subsection 1 of section 208, may invest their funds in any securities in which trustees may invest trust funds under *The Trustee Act*. Other insurers
R.S.O. 1960,
c. 408 1953, c. 19, s. 208.

210.—(1) If an insurer incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation, or if, after an insurer has undertaken contracts, such insurer discontinues business for one year, or if its licence remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the insurer's corporate powers *ipso facto* cease and determine, except for the sole purpose of winding up its affairs, and in any action or proceeding in which such non-user is alleged, proof of user is upon the insurer, and the Supreme Court, upon the petition of the Attorney General or of any person interested, may limit the time within which the insurer is to settle and close its accounts, and may, for that purpose or for the purpose of liquidation generally, appoint a receiver. When
charter to be
forfeited
for non-user
or discontin-
tinuance

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture. 1953, c. 19, s. 209. Rights of
creditors

211. In sections 212 to 218, "shareholder" includes member and participating policyholder eligible to vote for a policyholders' director. 1953, c. 19, s. 210. Interpre-
tation

212.—(1) The directors of an insurer undertaking and transacting life insurance shall lay before each annual meeting of shareholders, Information
when laid
before
annual
meetings of
life insurers

- (a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting or commencing immediately after the period covered

by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of

- (i) a statement of revenue and expenditure for such period,
- (ii) a statement of surplus for such period,
- (iii) a balance sheet made up to the end of such period;
- (b) the report of the auditor to the shareholders;
- (c) such further information respecting the financial position of the insurer as the letters patent, supplementary letters patent or by-laws of the insurer require.

Contents of
financial
statement

(2) The statements referred to in the subclauses of clause *a* of subsection 1 shall comply with and be governed by sections 213 to 217, but it is not necessary to designate them the statement of revenue and expenditure, statement of surplus and balance sheet.

Incorporation
of
statements

(3) The statement of surplus referred to in subclause ii of clause *a* of subsection 1 and the information required by subsections 2 and 3 of section 214 may be incorporated in and form part of the statement of revenue and expenditure referred to in subclause i of clause *a* of subsection 1.

Auditor's
report to
be read

(4) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. 1953, c. 19, s. 211.

Statement
of revenue
and
expenditure

213.—(1) The statement of revenue and expenditure to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the insurer for the period covered by the statement and so as to distinguish severally at least,

- (a) premium income;
- (b) income from invested assets;
- (c) profit or loss from sale of invested assets;
- (d) amounts by which values of invested assets are increased or decreased;

- (e) payments to policyholders and beneficiaries, other than the disbursement of moneys previously left on deposit;
- (f) increase or decrease in actuarial liability under insurance and annuity contracts;
- (g) total remuneration of directors as such from the insurer, including all salaries, bonuses, fees, contributions to pension funds and other emoluments;
- (h) premium taxes;
- (i) head office, agency, investment and other operating expenses;
- (j) the amount transferred to or from general surplus.

(2) Notwithstanding subsection 1, items of the natures ^{Notes} described in clauses *d* and *g* of subsection 1 may be shown by way of note to the statement of revenue and expenditure. 1953, c. 19, s. 212.

214.—(1) The statement of surplus shall be drawn up ^{Statement of surplus} so as to present fairly the transactions reflected in it and shall show separately a statement of general surplus and a statement of shareholders' surplus, howsoever designated.

(2) The statement of general surplus shall be drawn up so ^{General surplus} as to distinguish at least the following items:

1. The balance of each amount making up the total of general surplus as shown in the balance sheet at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
 - i. The amount shown on the statement of revenue and expenditure as transferred to or from general surplus.
 - ii. The amount of surplus arising from the issue of shares or the reorganization of the insurer's issued capital, including *inter alia*,
 - (a) the amount of premiums received on the issue of shares at a premium;
 - (b) the amount of surplus realized on the purchase for cancellation of shares.

iii. Donations of cash or other property by shareholders.

3. The balance of each amount making up such general surplus as shown in the balance sheet at the end of the financial period.

Share-
holders'
surplus

(3) The statement of shareholders' surplus shall be drawn so as to distinguish at least the following items:

1. The balance of such surplus as shown in the balance sheet at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:

i. The amount transferred to or from general surplus.

ii. Provision for taxes on income.

iii. The amount of dividends declared on each class of shares.

3. The balance of such surplus as shown in the balance sheet at the end of the financial period. 1953, c. 19, s. 213.

Balance
sheet

215.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the insurer as at the date to which it is made up and so as to distinguish severally at least the following:

1. The invested assets of the insurer as described in section 208 severally designated as follows:

i. Cash.

ii. Preference and common shares.

iii. Bonds and debentures.

iv. Mortgages.

v. Real estate held for sale.

vi. Real estate held for the production of income.

vii. Head office buildings.

- viii. Agreements for sale.
 - ix. Loans on policies.
 - x. Other invested assets stating their nature.
2. Other assets of the insurer distinguishing severally at least the following:
 - i. Net outstanding premiums due and deferred.
 - ii. Interest and rents due and accrued.
 - iii. Debts owing to the insurer from its shareholders except debts of reasonable amount arising in the ordinary course of the insurer's business that are not overdue having regard to the insurer's ordinary terms of credit.
 - iv. The aggregate amount of any outstanding loans under clauses *c*, *d* and *e* of subsection 2 of section 23.
 3. The actuarial liability under insurance and annuity contracts.
 4. Bank loans and overdrafts.
 5. Provision for unpaid and unreported claims.
 6. All other liabilities to policyholders.
 7. Debts owing by the insurer on loans from its directors, officers or shareholders.
 8. Commissions and other debts owing by the insurer segregating those that arose otherwise than in the ordinary course of business.
 9. Deferred income.
 10. Liability for taxes.
 11. Dividends on capital stock declared but not paid.
 12. The authorized capital, giving the number of each class of shares and a brief description of each such class and indicating therein any class of shares which is redeemable and the redemption price thereof.

13. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,

(a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and

(b) where any shares have not been fully paid,

(i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and

(ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.

14. Reserves, as described in clauses *a*, *b* and *c* of subsection 1 of section 218, showing the amounts added thereto and the amounts deducted therefrom during the financial period.

15. The amounts making up the surplus of the insurer severally designated as follows:

i. General surplus.

ii. Shareholders' surplus.

iii. Other surplus balances indicating their nature.

Notes

(2) Notwithstanding subsection 1, particulars of the items described in paragraphs 12 and 13 of subsection 1 may be shown by way of note to the balance sheet.

Idem

(3) The basis of valuation of the invested assets of the insurer shall be shown by way of note to the balance sheet. 1953, c. 19, s. 214.

Notes to
financial
statement

216.—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting or actuarial principle or practice or in the method of applying any accounting or actuarial principle or practice made during the period covered that affects the comparability of any of the

statements with any of those for the preceding period, and the effect, if material, of any such change upon the results of operations for the period.

(2) Where applicable, the following matters shall be referred ^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the insurer.
3. Contractual obligations that will require abnormal expenditures in relation to the insurer's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
5. Any liability secured otherwise than by operation of law on any asset of the insurer, stating the liability so secured, but it is not necessary to specify the asset on which the liability is secured.
6. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
7. Where an insurer has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
8. Any restriction by the letters patent, supplementary letters patent or by-laws of the insurer or by contract on the payment of dividends that is significant in the light of the insurer's financial position.

(3) Every note to a financial statement is an integral part ^{Idem} of it. 1953, c. 19, s. 215.

217. Notwithstanding sections 213 to 216, it is not necessary to state in a financial statement any matter that in all the ^{insignificant circumstances} circumstances is of relative insignificance. 1953, c. 19, s. 216.

Reserves

218.—(1) In a financial statement, the term “reserve” shall be used to describe only,

- (a) amounts appropriated from surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the insurer for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from surplus in accordance with the terms of a contract and which can be restored to the surplus when the conditions of the contract are fulfilled.

Idem

(2) Notwithstanding subsection 1, the term “reserve” may be used to describe the actuarial liability under insurance and annuity contracts. 1953, c. 19, s. 217; 1954, c. 14, s. 32; 1955, c. 9, s. 11.

Auditor's
report,
joint stock
insurance
companies
and cash
mutuals

219. The auditor of a joint stock insurance company or a cash mutual insurance corporation shall in the report required to be made by subsection 2 of section 82 also make such statements as he considers necessary,

- (a) if, in the case of corporations transacting other than life insurance, the provision for unearned premiums is not calculated as required by *The Insurance Act*;
- (b) if the provision for unpaid claims, in his opinion, is not adequate;
- (c) if the financial statement includes as assets items prohibited by *The Insurance Act* from being shown in the annual statements required to be filed thereunder; or
- (d) if any of the transactions of the corporation that have come to his notice have not been within its powers. 1954, c. 14, s. 33.

R.S.O. 1960,
c. 190

220. Every insurer shall deliver to the Superintendent within one month after passing thereof, a certified copy of its by-laws and of every repeal or addition to or amendment or consolidation thereof. 1953, c. 19, s. 219.

Delivery of
by-laws to
Superin-
tendent

221. A copy of every balance sheet or other statement published or circulated by an insurer, purporting to show its financial condition, shall be mailed or delivered to the Superintendent, concurrently with its issue to its shareholders or policyholders, or to the general public. 1953, c. 19, s. 220.

Balance
sheets and
statements

222. A person who fails to comply with section 219, 220 or 221 shall be deemed to be guilty of an offence under *The Insurance Act*. 1953, c. 19, s. 221.

Offence
R.S.O. 1960
c. 190

223. Subject to section 224, no person is eligible to become or shall be elected a director of a joint stock insurance company unless he is twenty-one or more years of age and holds in his own name and for his own use and absolutely in his own right shares of the capital stock of the company upon which at least \$1,000 has been paid in and has paid in cash all calls and instalments due thereon and all liabilities incurred by him to the company. 1953, c. 19, s. 222.

Directors of
joint stock
insurance
company,
qualifi-
cations

224.—(1) A joint stock life insurance company may, by by-law, provide that the affairs of the company shall be managed by a board of directors of whom a specified number, herein called shareholders' directors, shall be elected by the shareholders of the company, and a specified number, herein called policyholders' directors, shall be elected by those persons, herein called participating policyholders, whose lives are insured under a participating policy or participating policies of the company for at least \$2,000 upon which no premiums are due, whether or not any such person is a shareholder of the company.

Share-
holders'
directors;
policy-
holders'
directors

(2) A by-law passed under subsection 1 shall provide for the election of not fewer than nine and not more than twenty-one directors, of whom not less than one-third shall be policyholders' directors, and any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors.

Number of
directors;
vacancies

(3) Participating policyholders are entitled to attend and vote in person and not by proxy at all general meetings of the company, but as such are not entitled to vote for the election of shareholders' directors, but this section does not confer rights or impose liabilities on such participating policyholders in a liquidation of the company.

Participat-
ing policy-
holders'
right to vote

Policy-
holders',
director,
qualifi-
cations

(4) A holder of a participating policy or participating policies of the company for at least \$4,000 exclusive of bonus additions, upon which no premiums are due, who is not a shareholder and who has paid premiums on such policy or policies for at least three full years is eligible for election as a policyholders' director.

Annual
meeting

(5) Such a life insurance company shall have a fixed time in each year for its annual meeting and such time shall be printed in prominent type on each premium notice or each premium receipt issued by the company, and, in addition to all other notices required to be given by this Act, it shall give fifteen days notice of such meeting in two or more daily newspapers published at or as near as may be to the place where the company has its head office. 1953, c. 19, c. 223; 1954, c. 14, s. 34.

Interpre-
tation

225. In sections 226 to 237,

R.S.O. 1960,
c. 190

- (a) "deposit" means the deposit required under section 41 of *The Insurance Act*;
- (b) "insured person" means a person who enters into a subsisting contract of insurance with an insurer and includes,
 - (i) every person insured by a contract whether named or not,
 - (ii) every person to whom or for whose benefit all or part of the proceeds of a contract of insurance are payable, and
 - (iii) every person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 223 of *The Insurance Act*;
- (c) "loss" includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;
- (d) "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of *The Insurance Act*;

(e) "Ontario contract" means a subsisting contract of insurance that,

(i) has for its subject,

- a. property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or
- b. the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario, or

(ii) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;

(f) "reciprocal deposit" means a deposit of an insurer held under section 69 or 70 of *The Insurance Act*;

R.S.O. 1960
c. 190

(g) "reciprocating province" means a province that has been declared to be a reciprocating province under clause a of subsection 1 of section 69 or subsection 1 of section 70 of *The Insurance Act*, with respect to the deposit of a particular insurer. 1953, c. 19, s. 224.

226.—(1) The provisions of Part VII relating to the winding up of corporations apply to insurers incorporated under or subject to this Act except where inconsistent with this Part.

Application
of Part VII

(2) Where the company, corporation or society is not constituted exclusively or chiefly for insurance purposes and the insurance branch and fund are completely severable from every other branch and fund of the company, corporation or society, the word "insurer" for the purposes of sections 227 to 240 means only the insurance branch of the company, corporation or society. 1953, c. 19, s. 225.

Interpre-
tation

227.—(1) An insurer incorporated in Ontario may also be wound up by order of the Supreme Court on the application of the Superintendent, if the court is satisfied that,

Winding up
by order of
court on
application
of Superin-
tendent

(a) the insurer has failed to exercise its corporate powers during any continuous period of four years; or

- (b) the insurer has not commenced business or gone into actual operation within four years after it was incorporated; or
- (c) the insurer has discontinued business for one year after it has undertaken insurance contracts within the meaning of *The Insurance Act*; or
- (d) the insurer's licence has been suspended for one year or more; or
- (e) the insurer has carried on business or entered into a contract or used its funds in a manner or for a purpose prohibited or not authorized by *The Insurance Act* or by its Act of incorporation or by any special Act applicable thereto; or
- (f) other sufficient cause has been shown.

R.S.O. 1960,
c. 190

Approval of
Lieutenant
Governor
in Council

(2) No such application shall be made by the Superintendent without the approval of the Lieutenant Governor in Council.

Application
of Part VII

(3) Upon the making of an order under this section, the provisions of Part VII relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply. 1953, c. 19, s. 226.

Provisional
liquidator,
appoint-
ment

228.—(1) In the case of an insurer incorporated in Ontario,

- (a) if its licence expires and
 - (i) the insurer fails to renew within the period limited by *The Insurance Act*, or
 - (ii) a renewal is refused; or
- (b) if its licence is cancelled,

the Minister may appoint a provisional liquidator who shall take charge of the affairs of the company and may direct that it be wound up forthwith under this Act.

powers

(2) Until a permanent liquidator is appointed, the provisional liquidator shall exercise all the powers of the insurer and none of the officers or servants of the insurer shall make any contract for, incur any liability on behalf of, or expend any moneys of, the insurer without the approval of the provisional liquidator.

(3) The provisional liquidator shall petition the Supreme Court for a winding-up order, and, if the court is of the opinion that it is just and equitable so to do, it may make an order winding up the company and thereupon the provisions of this Act relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply.

Petition by
provisional
liquidator
for winding-
up order

(4) The provisional liquidator or the liquidator, notwithstanding this Act, but subject to the approval of the Supreme Court, may sell the business and undertaking of the company as a going concern. 1953, c. 19, s. 227.

Sale of
business

229.—(1) The remuneration to be paid to a provisional liquidator appointed under subsection 1 of section 228 shall be fixed by the Minister.

Remunera-
tion of
provisional
liquidator

(2) The remuneration and all expenses and outlay in connection with the appointment of the provisional liquidator, together with all expenses and outlay of the provisional liquidator while he acts in that capacity, shall be borne and paid by the insurer and form a first lien or charge upon the assets of the insurer, other than the deposit, unless otherwise directed under subsection 3.

Payment of
costs of
provisional
liquidator

(3) The Minister in his discretion may direct that the remuneration, expenses and outlay shall be paid out of the proceeds of the deposit made by the insurer, and in that case the amount directed to be paid has the same priority as the expenses of the receiver administering the deposit as fixed by clause *a* of section 58 of *The Insurance Act*. 1953, c. 19, s. 228.

Payment of
cost of
provisional
liquidator
out of
deposit

R.S.O. 1960,
c. 190

230.—(1) When an insurer incorporated under or subject to the law of Ontario proposes to cease writing insurance or to call a general meeting to consider a resolution for its voluntary liquidation under this Act, it shall give at least one month's notice in writing thereof to the superintendent of insurance of each province in which the insurer is licensed.

Notice of
intention
to cease
writing
insurance or
to consider
voluntary
liquidation

(2) When an insurer has passed a resolution for voluntary winding up, the insurer shall notify the Superintendent thereof and of the date on which contracts of insurance will cease to be entered into by the insurer and of the name and address of its liquidator.

Notice to
Superinten-
dent of
voluntary
winding up

(3) The notice under subsection 2 shall also be published by the insurer in two consecutive issues of *The Ontario Gazette* and the official gazette of each other province in which the

Publication
of notice

insurer is licensed and in such newspapers and other publications as the Superintendent requires. 1953, c. 19, s. 229.

Reinsurance **231.**—(1) The provisional liquidator or the liquidator, before any order granting administration of the deposit and before the fixing of a termination date pursuant to section 233, may arrange for the reinsurance of the subsisting contracts of insurance of the insurer with some other insurer licensed in Ontario.

Funds available for reinsurance (2) For the purpose of securing the reinsurance, the following funds shall be available:

1. The entire assets of the insurer in Ontario other than the deposit except the amount reasonably estimated by the provisional liquidator or the liquidator as being required to pay,

- (a) the costs of the liquidation or winding up,

- (b) all claims for losses covered by the insurer's contracts of insurance of which notice has been received by the insurer or provisional liquidator or liquidator before the date on which the reinsurance is effected,

- (c) the claims of the preferred creditors who are the persons paid in priority to other creditors under the winding up provisions of this Act,

all of which shall be a first charge on the assets of the insurer, other than the deposit.

2. All or such portion, if any, of the deposit as is agreed upon pursuant to subsection 3.

Agreement for use of deposit for reinsurance

(3) If it appears necessary or desirable to secure reinsurance for the protection of insured persons entitled to share in the proceeds of the deposit, the Minister, on the recommendation of the Superintendent, or, in the case of a reciprocal deposit, the superintendents of insurance of the reciprocating provinces, may enter into an agreement with the provisional liquidator or the liquidator, whereby, pursuant to section 47 or 71 of *The Insurance Act*, all or any part of the securities in the deposit may be used for the purpose of securing the reinsurance.

R.S.O. 1960, c. 190

Payments to creditors other than preferred creditors

(4) The creditors of the insurer, other than the insured persons and the said preferred creditors, are entitled to receive a payment on their claims only if provision has been made

for the payments mentioned in subsection 2 and for the reinsurance.

(5) If, after providing for the payments mentioned in subsection 2, the balance of the assets of the insurer, together with all or such portion, if any, of the deposit as is agreed upon under subsection 3, is insufficient to secure the reinsurance of the contracts of the insured persons in full, the reinsurance may be effected for such portion of the full amount of the contracts as is possible. Reinsurance of part of contracts

(6) No contract of reinsurance shall be entered into under this section until it is approved by the Supreme Court. 1953, c. 19, s. 230. Approval

232.—(1) In the winding up of an insurer that has made a deposit pursuant to *The Insurance Act*, if the person appointed as receiver to administer the deposit pursuant to section 52 of *The Insurance Act* is not the person appointed as the provisional liquidator or the liquidator under *The Insurance Act* or this Act or appointed as the liquidator under the *Winding-up Act* (Canada), as the case may be, the Supreme Court at any time in its discretion may order that the deposit and the administration thereof be transferred from the receiver to the provisional liquidator or the liquidator. Transfer of deposit from receiver to provisional liquidator or liquidator R.S.O. 1960, c. 190 R.S.O. 1952, c. 296

(2) Upon the making of an order under subsection 1, the provisional liquidator or the liquidator shall administer the deposit for the benefit of the persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act. Administration of deposit

(3) The amount payable to the provisional liquidator or the liquidator for administering the deposit and all costs and expenses incurred by him in administering the deposit shall be paid out of the deposit in accordance with the priorities fixed by clause *a* of section 58 of *The Insurance Act*, but the amount payable to the provisional liquidator or the liquidator and all costs and expenses incurred by him in the winding up of the insurer shall not be paid out of the deposit but shall be paid out of and are a first charge on the assets of the insurer except as provided in subsection 3 of section 229. 1953, c. 19, s. 231. Costs of administration of deposit

233.—(1) If the provisional liquidator or the liquidator fails to secure reinsurance, or if in his opinion it is impracticable or inexpedient to arrange for reinsurance, he, Termination date, where reinsurance not arranged

(a) with the approval of the Supreme Court and subject to such terms as are prescribed by it; and

- (b) for the purpose of securing the payment of existing claims and avoiding further losses,

may publish a notice fixing a termination date for the subsisting contracts of insurance of such insurer, and on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date.

Termination of Ontario contracts, where termination date fixed in another province

(2) Where a provisional liquidator or a liquidator has been appointed in another province to wind up an insurer incorporated in that province, and if such provisional liquidator or liquidator fixed a termination date for the contracts of insurance of the insurer, on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date.

Where termination date fixed by receiver
R.S.O. 1960, c. 190

(3) Where a receiver administering a deposit has fixed a termination date under section 53 of *The Insurance Act*, the termination date fixed under this section applies only to those contracts of insurance not already terminated on the date fixed by the receiver. 1953, c. 19, s. 232.

Publication of notice of termination date

234. The provisional liquidator or the liquidator shall cause the notice,

- (a) to be published in *The Ontario Gazette* and in the official gazette of each other province in which the insurer is licensed and in such newspapers as the Supreme Court directs in order to give reasonable notice of the termination date so fixed; and
- (b) to be mailed to each policyholder at his address as shown on the books and records of the company. 1953, c. 19, s. 233.

Payment of claims for losses and preferred claims, etc.

235.—(1) The liquidator shall pay or set aside from the assets of the insurer sums in his opinion sufficient to pay,

- (a) the costs of the liquidation or winding up;
- (b) all claims for losses covered by the insurer's contracts of insurance that occurred before the termination date fixed under section 53 of *The Insurance Act* or section 233 of this Act and that have not been paid or provided for in the administration of the deposit and of which notice has been received by the insurer or the liquidator;

- (c) the full amount of the legal reserve in respect of each unmaturing life insurance contract; and
- (d) the claims of preferred creditors who are the persons paid in priority to other creditors under the winding-up provisions of this Act.

(2) Except in the case of life insurance, the assets remaining after payment or making provision for payment of the amounts mentioned in subsection 1 shall be used to pay the claims of the insured persons for refunds of unearned premiums on a *pro rata* basis in proportion to the periods of their contracts respectively unexpired on the termination dates to the extent that those claims have not been paid or provided for in the administration of the deposit.

Refund of unearned premiums

(3) The claims of the insured persons for refunds of unearned premiums shall be calculated,

Calculation of unearned premium claims

- (a) as at the termination date fixed under section 53 of *The Insurance Act* or section 233 of this Act; or

R.S.O. 1960, c. 190

- (b) as at the date the insured person cancelled the contract,

whichever date is the earlier.

(4) The refund of all or a portion of the premium does not destroy or defeat any other remedy the insured person may have against the insurer in respect thereof or for any other cause.

Effect of refund

(5) Nothing in this section prejudices or affects the priority of any mortgage, lien or charge upon the property of the insurer. 1953, c. 19, s. 234.

Effect of section

236. The fees, taxes and costs payable by the insurer to each province shall be paid out of the assets of the insurer remaining after the reinsurance of the subsisting contracts of insurance of the insurer or after the payment of the claims of policyholders for refund of unearned premiums, as the case may be, and the balance shall be distributed among the creditors of the insurer other than the insured persons, preferred creditors and the several provinces. 1953, c. 19, s. 235.

Payment of provincial fees and taxes, etc.

237.—(1) Unless otherwise ordered by the Supreme Court, within seven days after the close of each period of three months and until the affairs of the insurer are wound up and the

Filing of statements by liquidator

accounts are finally closed, the liquidator shall file with the court or other authority appointing him and also with the Superintendent detailed schedules, in such form as is required, showing,

(a) receipts and expenditures; and

(b) assets and liabilities.

Production
of books,
etc., by
liquidator

(2) The liquidator, whenever he is required so to do by the authority appointing him or by the Minister, shall exhibit the office books and vouchers and furnish such other information respecting the affairs of the insurer as is required.

Offence

(3) Every liquidator refusing or neglecting to furnish such information is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 and in addition is liable to be dismissed or removed. 1953, c. 19, s. 236.

Distribution
of endow-
ment and
expectancy
funds

238.—(1) Where a fraternal society transacts endowment or expectancy insurance and has an endowment fund separate and distinct from its life insurance fund, the society may, by resolution duly passed at a general meeting, after at least one month's notice of such intended resolution, determine that the endowment or expectancy shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributing to such fund according to the total contribution of such member.

Procedure

(2) After the resolution has been assented to by the Superintendent and filed with the Provincial Secretary, the executive officers may proceed to ascertain the persons intended to rank upon the fund and may distribute the fund among those so entitled, and such distribution discharges the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society.

Merger of
funds

(3) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance contracts, the general meeting, instead of determining to distribute the endowment or expectancy fund, may determine to convert it into or merge it in a life insurance fund, and after the resolution has been assented to and filed as provided in subsection 2, the endowment or expectancy fund becomes a life insurance fund. 1953, c. 19, s. 237.

239. Notwithstanding anything in this Act or in *The Insurance Act*, where an insurer is being wound up voluntarily, the Superintendent may renew or extend the licence of the insurer for the purposes of its winding up. 1953, c. 19, s. 238. Extension of
licence
R.S.O. 1960,
c. 190

240. The books, accounts and documents of an insurer and the entries in the books of its officers or liquidators are *prima facie* evidence of the matters to which they relate as between an alleged debtor or contributory and the insurer. 1953, c. 19, s. 239. Books, etc.,
as evidence

PART VII

WINDING UP

241. In this Part, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Part. 1953, c. 19, s. 240. Interpre-
tation

242. This Part applies,

Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends;
- (c) to every corporation incorporated by or under a general or special Act of this Legislature;
- (d) to every insurer within the meaning of Part VI that is incorporated under or subject to this Act except where inconsistent with Part VI;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. 1953, c. 19, s. 241. R.S.O. 1960,
c. 222

Voluntary
winding up

243.—(1) Where the shareholders or members of a corporation by a majority of the votes cast at a general meeting called for that purpose pass a resolution requiring the corporation to be wound up, the corporation may be wound up voluntarily.

Appoint-
ment of
liquidator

(2) At such meeting the shareholders or members shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up. 1953, c. 19, s. 242.

Publica-
tion of
notice of
winding up

244.—(1) Notice of a resolution requiring the voluntary winding up of a corporation shall be filed with the Provincial Secretary and be published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been passed. 1953, c. 19, s. 243 (1); 1955, c. 9, s. 12.

Offence

(2) A corporation that fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. 1953, c. 19, s. 243 (2).

Inspectors

245. A corporation being wound up voluntarily may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. 1953, c. 19, s. 244.

Vacancy in
office of
liquidator

246. If in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders or members in general meeting may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidator, if any, or by any contributory, and shall be deemed to have been duly held if called in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. 1953, c. 19, s. 245.

247. The shareholders or members of the corporation may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator appointed under section 243 or 245, and in such case shall appoint another liquidator in his stead. 1953, c. 19, s. 246. Removal of liquidator

248. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up. 1953, c. 19, s. 247. Commencement of winding up

249. Where a corporation is being wound up voluntarily, it shall, from the date of the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its instrument of incorporation or by-laws, continue until its affairs are wound up. 1953, c. 19, s. 248. Corporation to cease business

250. After the commencement of a voluntary winding up, No proceedings against corporation after voluntary winding up except by leave

(a) no action or other proceeding shall be commenced against the corporation; and

(b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. 1953, c. 19, s. 249.

251.—(1) Upon a voluntary winding up, the liquidator shall settle the list of contributories, and any list so settled is *prima facie* evidence of the liability of the persons named therein to be contributories. 1953, c. 19, s. 250 (a). Settlement of list of contributories

(2) Upon a voluntary winding up, the liquidator may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he deems necessary to satisfy the liabilities of the corporation and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and the liquidator may, in making a call, take into consideration the Payment from contributories

probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. 1953, c. 19, s. 250 (b).

Meetings of
corporation
during
winding up

252.—(1) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the shareholders or members of the corporation for the purpose obtaining its sanction by resolution, or for any other purpose he thinks fit.

Where wind-
ing up
continues
more than
one year

(2) In the event of a voluntary winding up continuing for more than one year, the liquidator shall call a general meeting of the shareholders or members of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the preceding year. 1953, c. 19, s. 251.

Arrange-
ments with
creditors
may be
authorized

253. The liquidator, with the sanction of a resolution of the shareholders or members of the corporation passed in general meeting or of the inspectors, may make such compromise or other arrangement as the liquidator deems expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. 1953, c. 19, s. 252.

Power to
compromise
with debtors
and contri-
butories

254. The liquidator may, with the like sanction, compromise all calls and liabilities to call, debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed upon, and the liquidator may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. 1953, c. 19, s. 253.

Power to
accept
shares, etc.,
as considera-
tion for
sale of
property
to another
company

255.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidator of the first-mentioned corporation, with the sanction of a resolution

of the shareholders or members passed in general meeting of the corporation by which he was appointed conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, cash or shares or other like interest in the purchasing corporation for the purpose of distribution among the shareholders or members of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

(2) A sale made or arrangement entered into by the liquidator under this section is binding on the shareholders or members of the corporation that is being wound up voluntarily if, Confirmation of sale or arrangement

- (a) in the case of a company, the shareholders or classes of shareholders, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the shares or of each class of shares represented at the meeting; or
- (b) in the case of a corporation without share capital, the members or classes of members, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the members or of each class of members represented at the meeting,

approve the sale or arrangement and if the sale or arrangement is approved by an order made by the court on the application of the corporation.

(3) No resolution shall be deemed invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. 1953, c. 19, s. 254. Where resolution not invalid

256. A corporation may be wound up by order of the court, Winding up by court

- (a) where the shareholders or members by a majority of the votes cast at a general meeting called for that purpose pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in

the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;

(c) where it is proved to the satisfaction of the court that the corporation, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or

(d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up. 1953, c. 19, s. 255.

Who may
apply

257.—(1) The winding-up order may be made upon the application of the corporation or of a shareholder or of a member or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$200 or more.

Notice

(2) Except where the application is made by the corporation, four days notice of the application shall be given to the corporation before the making of the application. 1953, c. 19, s. 256.

Power of
court

258. The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is deemed just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up and may also delegate any powers of the court conferred by this Act to any officer of the court. 1953, c. 19, s. 257.

Appoint-
ment of
liquidator

259.—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property.

Remune-
ration

(2) The court may at any time fix the remuneration of the liquidator.

Vacancy

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy.

Removal of
liquidator

(4) The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. 1953, c. 19, s. 258.

260. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court at Toronto. 1953, c. 19, s. 259. Costs and expenses

261. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of service of notice of the application, and, where the application is made by the corporation, at the time the application is made. 1953, c. 19, s. 260. Commencement of winding up

262. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. 1953, c. 19, s. 261. Proceedings in winding up after order

263.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders or members of the corporation to be called, held and conducted in such manner as the court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court. Meetings of members of company may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, books, papers, estate or effects that are in his hands and to which the corporation is *prima facie* entitled. Order for delivery by contributories and others of property, etc.

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the books and papers of the corporation by its creditors and contributories, and any books and papers in the possession of the corporation may be inspected in conformity with such order. 1953, c. 19, s. 262. Inspection of books

No proceedings against corporation after court winding up except by leave

264. After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. 1953, c. 19, s. 263.

Application of ss. 266-278, 281

265. Sections 266 to 278 and 281 apply to corporations being wound up voluntarily or by order of the court. 1953, c. 19, s. 264.

Where no liquidator

266.—(1) If from any cause there is no liquidator, the court may by order on the application of a shareholder or member of the corporation appoint one or more persons as liquidator.

Idem

(2) Where there is no liquidator, the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. 1953, c. 19, s. 265.

Consequences of winding up

266.—(1) Upon a winding up,

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its liabilities *pari passu* and, subject thereto, shall distribute the property rateably among the shareholders or members according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, the wages of all clerks, labourers, servants, apprentices and other wage earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months wages and for vacation pay accrued for not more than twelve months under *The Hours of Work and Vacations with Pay Act* and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;
- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

R.S.O. 1960,
c. 181

(2) Section 52 of *The Trustee Act* applies *mutatis mutandis* to liquidators. 1953, c. 19, s. 266.

Distribution
of property
R.S.O. 1960,
c. 408

268. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. 1953, c. 19, s. 267.

Payment of
costs and
expenses

269.—(1) The liquidator may,

Powers of
liquidators

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as is necessary for the beneficial winding up of the corporation;
- (c) sell *en bloc* or in parcels the real and personal property, effects and things in action of the corporation by public auction or private sale;
- (d) do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration to the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation;
- (h) do and execute all such other things as are necessary for winding up the affairs of the corporation and distributing its property.

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of the corporation has the same effect with respect to the liability of the corporation as if such bill or note had

Bills of
exchange,
etc., to be
deemed
drawn in
due course

been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where
moneys
deemed to
be due to
liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself. 1953, c. 19, s. 268.

Nature of
liability of
contributory

270. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. 1953, c. 19, s. 269.

Who liable
in case of
his death

271. If a contributory dies before or after he has been placed on the list of contributories, his legal representatives are liable in due course of administration to contribute to the property of the corporation in discharge of the liability of such deceased contributory and shall be contributories accordingly. 1953, c. 19, s. 270.

Deposit in
bank by
liquidator

272.—(1) The liquidator shall deposit in a chartered bank in Ontario all sums of money that he has belonging to the corporation if such sums amount to \$100 or more.

Approval of
bank by
inspectors

(2) If inspectors have been appointed, the bank shall be one approved by them.

Separate
deposit
account to
be kept;
withdrawal
from
account

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only on the joint cheque of the liquidator and one of the inspectors, if any.

Liquidators
to produce
bank pass-
book

(4) At every meeting of the shareholders or members of the corporation the liquidator shall produce a pass-book^m or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

(5) The liquidator shall also produce the pass-book or ^{Idem} statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder or member of the corporation. 1953, c. 19, s. 271.

273. For the purpose of proving claims, sections 25, 26 ^{Proving claim} and 27 of *The Assignments and Preferences Act* apply *mutatis* ^{R.S.O. 1960, c. 25} *mutandis*, except that, where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. 1953, c. 19, s. 272.

274. Upon the application of the liquidator or of the ^{Application for direction} inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as it prescribes have been taken, may by order give its direction in any matter arising in the winding up. 1953, c. 19, s. 273.

275.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director or officer of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court deems capable of giving information concerning its trade, dealings, estate or effects. ^{Examination of persons as to estate}

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director or officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, money of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and order him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the court deems just, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the court deems just. 1953, c. 19, s. 274. ^{Damages against delinquent directors, etc.}

276.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, if any, refuses or neglects to take such ^{Proceedings by shareholders}

proceeding after being required so to do, the shareholder or member may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

Benefits,
when for
shareholders

(2) Thereupon any benefit derived from such proceeding belongs exclusively to the shareholder or member instituting the proceeding for his benefit and that of any other shareholder or member who has joined him in causing the institution of the proceeding.

when for
corporation

(3) If before such order is granted the liquidator signifies to the court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. 1953, c. 19, s. 275.

Rights conferred by
Act to be
in addition
to other
powers

277. The rights conferred by this Act are in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. 1953, c. 19, s. 276.

Stay of
winding-up
proceedings

278. At any time during a winding up, the court, upon the application of a shareholder or member or creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court deems fit. 1953, c. 19, s. 277.

Account of
voluntary
winding up
to be made
by liquidator
to a general
meeting

279.—(1) Where the affairs of the corporation have been fully wound up voluntarily, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings.

Notice of
holding of
meeting

(2) The liquidator shall within ten days after the holding of the meeting file a notice with the Provincial Secretary stating that the meeting was held and the date thereof.

(3) On the expiration of three months from the date of ^{Dissolution} the filing of the notice, the corporation is *ipso facto* dissolved.

(4) At any time during the three-month period mentioned ^{Extension} in subsection 3, the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is *ipso facto* dissolved on the date so fixed.

(5) The person on whose application the order was made ^{Copy of extension order to be filed} shall within ten days after it was made file with the Provincial Secretary a copy of it certified under the seal of the court.

(6) A person who fails to comply with any requirement ^{Offence} of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 278.

280.—(1) Notwithstanding section 279, in the case of a ^{Order for dissolution} voluntary winding up or in the case of a winding up by order of the court, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved at and from the date of the order.

(2) The person on whose application the order was made ^{Copy of dissolution order to be filed} shall within ten days after it was made file with the Provincial Secretary a copy of it certified under the seal of the court.

(3) A person who fails to comply with any requirement of ^{Offence} this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 279.

281.—(1) Where the liquidator is unable to distribute ^{Where shareholder unknown} rateably the property of the corporation among the shareholders or members because a shareholder or member is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder or member may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder or member, and thereupon subsections 5 and 6 of section 327 apply thereto.

(2) A delivery or conveyance under subsection ^{Idem} 1st shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause *a* of subsection 1 of section 267.

Where
creditor
unknown

(3) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor and thereupon subsections 5 and 6 of section 327 apply thereto.

Idem

(4) A payment under subsection 3 shall be deemed to be in satisfaction of the debt for the purposes of clause *a* of subsection 1 of section 267. 1953, c. 19, s. 280.

Disposal of
books, etc.,
after wind-
ing up

282.—(1) Where a corporation has been wound up under this Act and is about to be dissolved, its books, accounts and documents and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under order.

Where
responsi-
bility as to
custody of
books, etc.,
to cease

(2) After the lapse of five years from the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of such books, accounts and documents has been committed by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. 1953, c. 19, s. 281.

Provision
for dis-
charge of
liquidator
and distri-
bution by
the court

283.—(1) Where a corporation is being wound up under an order of the court and the realization and distribution of its property has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
books and
documents

(2) In such case, the court may make an order directing how the books, accounts and documents of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as it thinks fit. 1953, c. 19, s. 282.

Rules of
procedure

284. The Lieutenant Governor in Council may make rules for the due carrying out of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. 1953, c. 19, s. 283.

PART VIII

CORPORATIONS, GENERAL

285. This Part, except where it is otherwise expressly Application provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by R.S.O. 1960, c. 222, that Act. 1953, c. 19, s. 284.

286. A corporation is, upon its incorporation, invested with all the property and rights, real and personal, thereto-
Incorporation subject to trusts
fore held by or for it under any trust created with a view to its incorporation. 1953, c. 19, s. 285.

287. A corporation, unless otherwise expressly provided in the Act or instrument creating it, has and shall be deemed to have had from its creation the capacity of a natural person and may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. 1953, c. 19, s. 286; 1954, c. 14, s. 35.
General corporate powers

288. A corporation has power,

Incidental powers

- (a) to construct, maintain and alter any buildings or works necessary or convenient for its objects;
- (b) to acquire by purchase, lease or otherwise and to hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer so necessary, to sell, alienate and convey the same. 1953, c. 19, s. 287.

Restrictions
on holding
land

289.—(1) No corporation and no trustee on its behalf shall acquire or hold any land or interest therein, not necessary for the actual use and occupation of the corporation or for carrying on its undertaking or not held by way of security, for more than seven years after its acquisition if the land was never so necessary or after it has ceased to be so necessary.

Extension
of period

(2) The Lieutenant Governor in Council may extend the period of seven years mentioned in subsection 1, but no such extension or extensions shall exceed five years in all.

Statement
as to land
held

(3) A corporation shall give to the Provincial Secretary when required a full and correct statement of all land or interest therein at the date of such statement held by or in trust for the corporation. 1953, c. 19, s. 288.

Head
office

290.—(1) Subject to subsection 2, a corporation shall at all times have its head office in the place in Ontario where the letters patent provide that the head office is to be situate.

Change of
head
office

(2) A corporation may by special resolution change the location of its head office to another place in Ontario. 1953, c. 19, s. 289 (1, 2).

Filing and
publication

(3) Notice of the special resolution shall be filed with the Provincial Secretary and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution. 1953, c. 19, s. 289 (3); 1955, c. 9, s. 13.

Offence

(4) A corporation that fails to comply with subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. 1953, c. 19, s. 289 (4).

Social
clubs,
change of
premises

291.—(1) Notwithstanding this or any other Act or law, no corporation that has objects in whole or in part of a social nature, other than a corporation commonly known as a service club, shall change the location of any of its premises without the prior consent in writing of the Provincial Secretary.

Idem

(2) The giving of the consent mentioned in subsection 1 is in the discretion of the Provincial Secretary. 1960, c. 13, s. 1.

292. A corporation shall have a seal which shall be adopted ^{Seal} and may be altered or changed by by-law. 1953, c. 19, s. 290.

293.—(1) A contract that if made between individual ^{Contracts} persons would be by law required to be in writing and under ^{in writing} seal may be made on behalf of a corporation in writing under ^{not under} the seal of the corporation.

(2) A contract that if made between individual persons ^{Contracts} would be by law required to be in writing signed by the ^{in writing} parties to be charged therewith may be made on behalf of a ^{not under} corporation in writing signed by any person acting under its ^{seal} authority, express or implied.

(3) A contract that if made between individual persons ^{Parol} would be by law valid although made by parol only and not ^{contracts} reduced into writing may be made by parol on behalf of a corporation by any person acting under its authority, express or implied. 1953, c. 19, s. 291.

294. A corporation may, by writing under seal, empower ^{Power of} any person, either generally or in respect of any specified ^{attorney} matters, as its attorney to execute on its behalf deeds to ^{by corpo-} which it is a party in any capacity in any place situate in ^{ration} or outside Ontario, and every deed signed by such attorney on behalf of the corporation and under his seal binds the corporation and has the same effect as if it were under the seal of the corporation. 1953, c. 19, s. 292.

295. A document requiring authentication by a corporation ^{Authentica-} may be signed by any director or by any authorized person ^{tion of} and need not be under seal. 1953, c. 19, s. 293. ^{documents,} ^{etc.}

296.—(1) The affairs of every corporation shall be managed ^{Directors} by a board of directors howsoever designated.

(2) The board of directors of a corporation shall consist ^{Number} of a fixed number of directors not fewer than three.

(3) Subject to subsection 1 of section 311, no business of a ^{Conduct of} corporation shall be transacted by its directors except at a ^{business} meeting of directors at which a quorum of the board is present.

(4) Where there is a vacancy or vacancies in the board of ^{Idem} directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. 1953, c. 19, s. 294.

First
directors

297.—(1) The persons named as first directors in the Act or instrument creating the corporation are the directors of the corporation until replaced by the same number of others duly elected or appointed in their stead.

Idem

(2) The first directors of the corporation have all the powers and duties and are subject to all the liabilities of directors.

Interpre-
tation

(3) In the case of corporations incorporated before the 30th day of April, 1954, "first directors" in this section means provisional directors. 1953, c. 19, s. 295.

Change in
number of
directors

298.—(1) A corporation may by special resolution increase or decrease the number of its directors. 1953, c. 19, s. 296 (1).

Notice of
special
resolution

(2) Notice of the special resolution shall be filed with the Provincial Secretary and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution. 1953, c. 19, s. 296 (2); 1955, c. 9, s. 14.

Offence

(3) A corporation that fails to comply with subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. 1953, c. 19, s. 296 (3).

Qualifica-
tion of
directors,
must be
share-
holders

299.—(1) Subject to subsections 2 and 3, no person shall be a director of a corporation unless he is a shareholder or member of the corporation, and, if he ceases to be a shareholder or member, he thereupon ceases to be a director. 1953, c. 19, s. 297 (1), *amended*.

Exception

(2) A person may be a director of a corporation if he becomes a shareholder or member of the corporation within ten days after his election or appointment as a director, but, if he fails to become a shareholder or member within such ten days, he thereupon ceases to be a director and shall not be re-elected or re-appointed unless he is a shareholder or member of the corporation. 1953, c. 19, s. 297 (2).

Directors of
hospital
corporations
R.S.O. 1960,
c. 322

(3) A corporation operating a hospital within the meaning of *The Public Hospitals Act* may by by-law provide that a person may, with his consent in writing, be a director of

the corporation notwithstanding that he is not a shareholder or member of the corporation. 1953, c. 19, s. 298.

(4) A director shall be twenty-one or more years of age. Age

(5) No undischarged bankrupt shall be a director, and, if Bankrupts a director becomes a bankrupt, he thereupon ceases to be a director. 1953, c. 19, s. 297 (3, 4).

300.—(1) The directors shall be elected by the share-Election of holders or members in general meeting and the election shall directors be by ballot or in such other manner as the by-laws of the corporation prescribe.

(2) Unless the letters patent or supplementary letters Idem patent otherwise provide, the election of directors shall take place yearly and all the directors then in office shall retire, but, if qualified, are eligible for re-election.

(3) Subsection 2 does not affect the operation of any by-law Exception passed before the 30th day of April, 1954, which provides that the election of directors shall take place otherwise than yearly.

(4) If an election of directors is not held at the proper Continu- time, the directors continue in office until their successors ance in office are elected.

(5) The letters patent or supplementary letters patent may Rotation of provide for the election and retirement of directors in rotation, directors but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year.

(6) A corporation to which Part V applies may by by-law Idem, provide for the election and retirement of directors in rotation, co-ops but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. 1953, c. 19, s. 299.

301.—(1) Unless the letters patent, supplementary letters Quorum of patent or a special resolution otherwise provides, a majority directors of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors.

(2) As long as there is a quorum of directors in office, any Vacancies vacancy occurring in the board of directors may be filled for the remainder of the term by the directors then in office.

Idem

(3) Whenever there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the shareholders or members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any shareholder or member. 1953, c. 19, s. 300.

President

302.—(1) The directors shall elect a president from among themselves.

Other officers

(2) The directors shall appoint a secretary and may appoint one or more vice-presidents and other officers.

Acting secretary

(3) If the office of secretary is vacant or if for any reason the secretary is unable to act, anything required or authorized to be done by the secretary may be done by an assistant secretary or, if there is no assistant secretary able to act, by any other officer of the corporation authorized generally or specifically in that behalf by the directors. 1953, c. 19, s. 301.

Chairman of the board

303. A corporation may by special resolution provide for the election by the directors from among themselves of a chairman of the board of directors and define his duties, and may assign to the chairman of the board of directors any or all of the duties of the president or other officer of the corporation, and in that case the special resolution shall fix and prescribe the duties of the president. 1953, c. 19, s. 302.

Qualification of officers

304. Except in the case of the president and the chairman of the board of directors, no officer of the corporation need be a director or a shareholder or member of the corporation unless the by-laws so provide. 1953, c. 19, s. 303.

Validity of acts of directors, etc.

305. The acts of a director or of an officer are valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. 1953, c. 19, s. 304.

Annual meetings

306. A corporation shall hold an annual meeting of its shareholders or members not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting. 1953, c. 19, s. 305.

General meetings

307. The directors may at any time call a general meeting of the shareholders or members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. 1953, c. 19, s. 306.

308.—(1) Shareholders of a company holding not less than one-tenth of the issued shares of the company that carry the right to vote at the meeting proposed to be held, or not less than one-tenth of the members of a corporation without share capital entitled to vote at the meeting proposed to be held, as the case may be, may request the directors to call a general meeting of the shareholders or members for any purpose connected with the affairs of the corporation that is not inconsistent with this Act. Requisition for meeting

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form signed by one or more requisitionists. Requisition

(3) Upon deposit of the requisition, the directors shall call forthwith a general meeting of the shareholders or members for the transaction of the business stated in the requisition. Duty of directors to call meeting

(4) If the directors do not within twenty-one days from the date of the deposit of the requisition call and hold such meeting, any of the requisitionists may call such meeting which shall be held within sixty days from the date of the deposit of the requisition. Where requisitionists may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of shareholders or members are called under the by-laws, but if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of such meeting. Calling of meeting

(6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors to call such meeting shall be repaid to the requisitionists by the corporation and any amount so repaid shall be retained by the corporation out of any moneys due or to become due from the corporation by way of fees or other remuneration in respect of their services to such of the directors as were in default, unless at such meeting the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. 1953, c. 19, s. 307. Repayment of expenses

309.—(1) On the requisition in writing of shareholders of a company holding not less than one-twentieth of the issued shares of the company that carry the right to vote at the meeting to which the requisition relates or not less than one- Circulation of shareholders' resolutions, etc.

twentieth of the members of a corporation without share capital entitled to vote at the meeting to which the requisition relates, as the case may be, the directors shall,

- (a) give to the shareholders or members entitled to notice of the next meeting of shareholders or members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or
- (b) circulate to the shareholders or members entitled to vote at the next meeting of shareholders or members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

Notice

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each shareholder or member entitled thereto in the same manner and at the same time as that prescribed by this Act for the sending of notice of meetings of shareholders or members.

Idem

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter. 1954, c. 14, s. 36 (1).

Deposit of
requisition,
etc.

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

- (a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,
 - (i) in the case of a requisition requiring notice of a resolution to be given, not less than ten days before the meeting,
 - (ii) in the case of a requisition requiring a statement to be circulated, not less than seven days before the meeting; and

(b) there is deposited with the requisition a sum reasonably sufficient to meet the corporation's expenses in giving effect thereto. 1953, c. 19, s. 308 (4).

Where
directors
not bound
to circulate
statement

(5) The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being

abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the corporation to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application.

(6) A corporation and a director, officer, employee or person acting on its behalf, except a requisitionist, is not liable in damages or otherwise by reason only of the circulation of a notice or statement or both in compliance with this section. 1954, c. 14, s. 36 (2). Where no liability

(7) Notwithstanding anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates. Duty to deal with requisitioned matter

(8) The sum deposited under clause *b* of subsection 4 shall be repaid to the requisitionists by the corporation unless at the meeting to which the requisition relates the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. Repayment of expenses

(9) A director of a corporation who authorizes, permits or acquiesces in any contravention of any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 308 (5-7). Offence

310. If for any reason it is impracticable to call a meeting of shareholders or members of the corporation in any manner in which meetings of shareholders or members may be called or to conduct the meeting in the manner prescribed by this Act, the letters patent, supplementary letters patent or by-laws, the court may, on the application of a director or a shareholder or member who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with such an order shall for all purposes be deemed to be a meeting of shareholders or members of the corporation duly called, held and conducted. 1953, c. 19, s. 309. Court may direct method of holding meetings

311.—(1) Any by-law or resolution signed during a corporation's first year of existence by all the directors is as valid and effective as if passed at a meeting of the directors duly called, constituted and held for that purpose. First-year by-laws and resolutions

Idem

(2) Any resolution signed during the corporation's first year of existence by all the shareholders or members is as valid and effective as if passed at a meeting of the shareholders or members duly called, constituted and held for that purpose.

Alternative
method of
confirming
by-laws

(3) Any by-law passed at any time during a corporation's existence may, in lieu of confirmation at a general meeting, be confirmed in writing by all the shareholders or members entitled to vote at such meeting. 1953, c. 19, s. 310 (1-3).

Evidentiary
value of
signatures

(4) Where a by-law or resolution purports to have been passed or confirmed under this section by the signatures of all the directors, shareholders or members, as the case may be, of the corporation, the signatures to such by-law or resolution are admissible in evidence as *prima facie* proof of the signatures of all the directors, shareholders or members, as the case may be, and are admissible in evidence as *prima facie* proof that the signatories to the by-law or resolution were all the directors, shareholders or members, as the case may be, at the date that the by-law or resolution purports so to have been passed or confirmed. 1955, c. 9, s. 15.

Minute
books

312.—(1) A corporation shall cause minutes of all proceedings at meetings of the shareholders or members and of the directors and of any executive committee to be entered in books kept for that purpose.

Evidence

(2) Any such minutes, if purporting to be signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting, are admissible in evidence as *prima facie* proof of the proceedings.

Validity

(3) Where minutes in accordance with this section have been made of the proceedings of a meeting of the shareholders or members or of the directors or any executive committee, then, until the contrary is proved, the meeting shall be deemed to have been duly called, constituted and held and all proceedings had thereat to have been duly had and all appointments of directors, officers or liquidators made thereat shall be deemed to have been duly made. 1953, c. 19, s. 311.

Documents
and
registers

313. A corporation shall cause the following documents and registers to be kept:

1. A copy of the letters patent and of any supplementary letters patent issued to the corporation and of the memorandum of agreement, if any, or, if incorporated by special Act, a copy of the Act.

2. All by-laws and special resolutions of the corporation.
3. A register of shareholders or members in which are set out the names alphabetically arranged of all persons who are shareholders or members or have been within ten years shareholders or members of the corporation and the address of every such person while a shareholder or member and, in the case of a company, in which are set out also the number and class of shares held by each shareholder and the amounts paid up and remaining unpaid on their respective shares.
4. A register of directors in which are set out the names, addresses and callings of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director. 1953, c. 19, s. 312.

314. The documents and registers mentioned in sections 40 and 313 are admissible in evidence as *prima facie* proof before and after dissolution of the corporation of all facts purporting to be stated therein. 1953, c. 19, s. 313.

315. A corporation shall cause to be kept proper books of account and accounting records with respect to all financial and other transactions of the corporation and, without derogating from the generality of the foregoing, records of,

- (a) all sums of money received and disbursed by the corporation and the matters with respect to which receipt and disbursement took place;
- (b) all sales and purchases of the corporation;
- (c) the assets and liabilities of the corporation; and
- (d) all other transactions affecting the financial position of the corporation. 1953, c. 19, s. 314.

316. A director, officer or employee of a corporation who makes or assists in making any entry in the minutes of proceedings mentioned in section 312, in the documents and registers mentioned in sections 40 and 313 or in the books of account or accounting records mentioned in section 315, knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both. 1954, c. 14, s. 37.

Records to
be kept at
head office

317.—(1) The minutes of proceedings mentioned in section 312, the documents and registers mentioned in sections 40 and 313 and the books of account and accounting records mentioned in section 315 shall, during the normal business hours of the corporation, be open to inspection by any director and shall, except as provided in section 42 and in subsections 2 and 3 of this section, be kept at the head office of the corporation.

Records of
account at
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations and assets and liabilities thereof or to such business of the corporation as was carried on or supervised or accounted for at such place, but there shall be kept at the head office of the corporation or such other place as is authorized under subsection 3 such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Exception

(3) Upon necessity therefor being shown and adequate assurance given that the minutes, documents, registers, books of account and accounting records mentioned in subsection 1 may be inspected by any person entitled thereto at the head office or some other place in Ontario designated by the Provincial Secretary after application to him for such inspection, he may upon such terms as he sees fit by order permit any corporation to keep such of them at such place or places, other than the head office, as he sees fit.

Offence

(4) A director, officer or employee of a corporation who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 316 (1-4).

Rescission
of orders
made under
subs. 3

(5) The Provincial Secretary may by order upon such terms as he sees fit rescind any order made under subsection 3 or any order made by the Lieutenant Governor in Council under a predecessor of that subsection. 1955, c. 9, s. 16.

Records to
be open for
inspection

318.—(1) The minutes of proceedings at meetings of shareholders or members mentioned in section 312 and the documents and registers mentioned in sections 40 and 313, during the normal business hours of the corporation shall, at the place or places where they are kept, be open to inspection by the shareholders or members and creditors of the corporation or their agents or legal representatives, and any of them may make extracts therefrom.

Offence

(2) Every person who refuses to permit a person entitled thereto to inspect such minutes, documents or registers, or to

make extracts therefrom, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 19, s. 317; 1954, c. 14, s. 38.

319.—(1) No shareholder or member or creditor or the ^{List of} agent or legal representative of any of them shall make or ^{shareholders} cause to be made a list of all or any of the shareholders or members of the corporation, unless he has filed with the corporation or its agent an affidavit of such shareholder, member or creditor in the following form, and, where the shareholder, member or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation:

Form of Affidavit

Province of Ontario
County of

In the matter of
(Insert name of corporation)

1,, of the of
in the of
make oath and say:

1. I am a shareholder (*or member or creditor*) of the above-named corporation.

(Where the shareholder, member or creditor is a corporation, indicate office and authority of deponent in paragraph 1.)

2. I am applying to make a list of the shareholders (*or members*) of the above-named corporation.

3. I require the list of shareholders (*or members*) only for purposes connected with the above-named corporation.

4. The list of shareholders (*or members*) and the information contained therein will be used only for purposes connected with the above-named corporation.

SWORN, etc.

(2) Every person, other than a corporation or its agent, ^{Offence} who uses a list of all or any of the shareholders or members of the corporation for the purpose of delivering or sending to all or any of such shareholders or members advertising or other printed matter relating to shares or securities, other than the shares or securities of the corporation, or for purposes not connected with the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

(3) Purposes connected with the corporation include any ^{Purposes} effort to influence the voting of shareholders or members at ^{connected} any meeting of the corporation and include the acquisition ^{with the} or offering of shares to acquire control or to effect an amalga- ^{corporation,} ^{defined} mation or reorganization and any other purpose approved by the Provincial Secretary.

Offence

(4) Every person who offers for sale or sells or purchases or otherwise traffics in a list or copy of a list of all or any of the shareholders or members of a corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1953, c. 19, s. 318.

Power of court to correct

320.—(1) If the name of a person is, without sufficient cause, entered in or omitted from the minutes of proceedings mentioned in section 312 or from the documents or registers mentioned in sections 40 and 313, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the court for an order that the minutes, documents or registers be rectified, and the court may dismiss such application or make an order for the rectification of the minutes, documents or registers, and may direct the corporation to compensate the party aggrieved for any damage he has sustained.

Decision as to title

(2) The court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to such proceeding to have his name entered in or omitted from such minutes, documents or registers, whether such question arises between two or more shareholders or members or alleged shareholders or members, or between any shareholder or member or alleged shareholder or member and the corporation.

Trial of issue

(3) The court may direct an issue to be tried.

Appeal

(4) An appeal lies from the decision of the court as if it had been given in an action.

Jurisdiction of courts not affected

(5) This section does not deprive any court of any jurisdiction it otherwise has.

Costs

(6) The costs of any proceeding under this section are in the discretion of the court. 1953, c. 19, s. 319.

Investigations and audits

321.—(1) Upon an application by the shareholders of a company holding shares representing not less than one-tenth of the issued capital of the company, or upon an application of at least one-tenth of the members of a corporation without share capital, the court may appoint an inspector to investigate the affairs and management of the corporation or may appoint a person to audit its books.

(2) The application shall be supported by such evidence Evidence as the court requires for the purpose of showing that the applicants have good reason for requiring the investigation or audit, as the case may be.

(3) The court may require the applicants to give security Security for costs to cover the probable cost of the investigation or audit and may make rules and prescribe the manner in which and the extent to which the investigation or audit is to be conducted.

(4) Such inspector or auditor shall report thereon to the court and the expense of the investigation shall, in the discretion of the court, be defrayed by the corporation or by the applicants or partly by the corporation and partly by the applicants. Report on and expense of investigation or audit

(5) A corporation may, by resolution passed at an annual meeting or at a general meeting called for that purpose, appoint an inspector to investigate its affairs and management. Corporation may appoint inspector for same purpose

(6) The inspector appointed under subsection 5 has the same powers and shall perform the same duties as an inspector appointed under subsection 1 and he shall make his report in such manner and to such persons as the corporation by resolution directs. Powers and duties of inspector

(7) All officers and agents of the corporation shall produce for the examination of any inspector or auditor appointed under this section all books and records in their custody or power. Production of books and documents

(8) Any such inspector or auditor may examine upon oath the officers, agents and employees of the corporation in relation to its affairs and management. Examination on oath

(9) Every officer or agent who refuses to produce any book or record referred to in subsection 7 and every person so examined who refuses to answer any question relating to the affairs and management of the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Offence

(10) A copy of the report of the inspector or auditor, as the case may be, authenticated by the court or under the seal of the corporation whose affairs and management he has investigated, is admissible in any legal proceedings as evidence of the opinion of the inspector or auditor in relation to any matter contained in the report. 1953, c. 19, s. 320. Report admissible in proceedings

Corporation with fewer than three shareholders or members exercising corporate powers

322.—(1) If a corporation exercises its corporate powers when its shareholders or members are fewer than three for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the corporation contracted during such time and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.

Shareholder or member may relieve himself from liability

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Provincial Secretary of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation of charter

(3) If after notice from the Provincial Secretary the corporation refuses or neglects to bring the number of its shareholders or members up to three, such refusal or neglect may be regarded by the Lieutenant Governor as sufficient cause for the making of an order under subsection 1 of section 326. 1953, c. 19, s. 321.

Bringing corporations under this Act

323.—(1) A corporation incorporated otherwise than by letters patent and being at the time of its application a subsisting corporation may apply for letters patent under this Act, and the Lieutenant Governor may issue letters patent continuing it as if it had been incorporated under this Act.

Change of powers, etc.

(2) Where a corporation applies for the issue of letters patent under subsection 1, the Lieutenant Governor may, by the letters patent, limit or extend the powers of the corporation, name its directors and change its corporate name, as the applicant desires. 1953, c. 19, s. 322.

Transfer of foreign corporations

(3) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Lieutenant Governor to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Lieutenant Governor for letters patent continuing it as if it had been incorporated under this Act, and the Lieutenant Governor may issue such letters patent on application supported by such material as appears satisfactory and such letters patent

may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Lieutenant Governor to be fit and proper. 1954, c. 14, s. 39.

324. All rights of creditors against the property, rights and assets of a corporation amalgamated under section 96 or continued under section 323, and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the corporation thenceforth attach to the amalgamated or continued corporation and may be enforced against it. 1953, c. 19, s. 323; 1955, c. 9, s. 17.

Rights of
creditors
preserved

325.—(1) If a corporation heretofore or hereafter incorporated by letters patent did not go or does not go into actual *bona fide* operation within two years after incorporation or for any two consecutive years did not or does not use its corporate powers, the Lieutenant Governor, after having given the corporation such notice as he deems proper, may by order declare such powers forfeited, except so far as is necessary for the winding up of the corporation.

Forfeiture
for non-user

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture.

Rights of
creditors not
affected

(3) Where the powers of a corporation have been forfeited under subsection 1 or a predecessor of subsection 1, the Lieutenant Governor on the application of the corporation may by order, on such terms and conditions as he sees fit to impose, revive the corporate powers. 1953, c. 19, s. 324.

Revival

326.—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he deems fit,

Termination
of existence
for cause

- (a) cancel the letters patent of a corporation and declare it to be dissolved on such date as the order fixes;
- (b) declare the corporate existence of a corporation incorporated otherwise than by letters patent to be terminated and the corporation to be dissolved on such date as the order fixes; or
- (c) cancel any supplementary letters patent issued to a corporation. 1953, c. 19, s. 325 (1).

(2) Where it appears that a corporation is in default for a period of three years in filing its annual returns under *The Corporations Information Act* or a predecessor thereof and

Termination
of existence
on default
in filing
returns
R.S.O. 1960,
c. 72

that notice of such default has been sent by registered mail to each director of record in the office of the Provincial Secretary to his last address shown on the records of that office and has been published once in *The Ontario Gazette*, the Lieutenant Governor may by order,

- (a) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order fixes; or
- (b) declare the corporate existence of the corporation, if it was incorporated otherwise than by letters patent, to be terminated and the corporation to be dissolved on such date as the order fixes. 1953, c. 19, s. 325 (2); 1957, c. 15, s. 4, *amended*.

Revival

(3) Where a corporation has been or is dissolved under subsection 2, the Lieutenant Governor, on the application of any interested person made within three years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. 1958, c. 14, s. 1.

Surrender of
charter

327.—(1) The charter of a corporation incorporated by letters patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant Governor,

- (a) that the surrender of its charter has been authorized,
 - (i) by a majority of the votes cast at a meeting of its shareholders or members duly called for that purpose or by such other vote as the letters patent or supplementary letters patent of the corporation provide, or
 - (ii) by the consent in writing of all the shareholders or members entitled to vote at such meeting;
- (b) that it has parted with its property by distributing it rateably among its shareholders or members according to their rights and interests in the corporation;

- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for or protected or its creditors or other persons having interests in its debts, obligations or liabilities consent;
- (d) that there are no proceedings pending in any court against it; and
- (e) that it has given notice of its intention to surrender its charter by publication once in *The Ontario Gazette* and once in a newspaper published at or as near as may be to the place where it has its head office. 1953, c. 19, s. 326 (1); 1955, c. 9, s. 18.

(2) The Lieutenant Governor, upon due compliance with this section, may by order accept the surrender of the charter and declare the corporation to be dissolved on such date as the order fixes.

Acceptance of surrender and dissolution of corporation

(3) When a corporation surrenders its charter and a shareholder or member is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause *b* of subsection 1.

Where shareholder unknown

(4) When a corporation surrenders its charter and a creditor is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due protection of the debt for the purposes of clause *c* of subsection 1.

Where creditor unknown

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection 3 is in a form other than money, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into money.

Power to convert

(6) If the share of the property delivered or conveyed under subsection 3 or its equivalent in money, or the amount paid under subsection 4, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the

Payment to person entitled

Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him.

Property
now held by
Public
Trustee

(7) Where an order has been made before the 30th day of April, 1954, accepting the surrender of the charter of a corporation and the Public Trustee is holding property of the corporation in trust for its shareholders, members or creditors, subsections 5 and 6 apply to the property so held, except that the ten-year period mentioned in subsection 6 commences on the 30th day of April, 1954. 1953, c. 19, s. 326 (2-7).

Termination
of existence
of corpora-
tion not
incorporated
by letters
patent

328. The corporate existence of a corporation incorporated otherwise than by letters patent may be terminated by order of the Lieutenant Governor upon application therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by letters patent may surrender its charter. 1953, c. 19, s. 327.

Liability
of share-
holders to
creditors

329.—(1) Notwithstanding the dissolution of a corporation, the shareholders or members among whom its property has been distributed remain liable to its creditors to the amount received by them respectively upon such distribution, and an action may be brought within one year from the date of such dissolution in a court of competent jurisdiction to enforce such liability.

Action
against
one share-
holder as
representing
class

(2) Where there are numerous shareholders or members, such court may permit an action to be brought against one or more shareholders or members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders or members as are found and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. 1953, c. 19, s. 328.

Forfeiture
of undis-
posed
property

330. Any real or personal property of a corporation that has not been disposed of at the date of its dissolution is forfeit to the Crown. 1953, c. 19, s. 329.

Evidence of
by-laws

331. A copy of any by-law of a corporation under its seal and purporting to be signed by an officer of the corporation, or a certificate similarly authenticated to the effect that a person is a shareholder or member of the corporation and that dues or other sums payable are due and have not been paid, or that a call or assessment that has been made is due

and has not been paid, shall be received in all courts as *prima facie* proof of the by-law or of the statements contained in such certificate. 1953, c. 19, s. 330.

332.—(1) Subject to the letters patent, supplementary letters patent or by-laws, a notice or demand to be served or made by a corporation upon a shareholder or member may be served or made personally or sent by registered letter addressed to the shareholder or member at his last address as shown on the books of the corporation. Service of notice

(2) Subject to the letters patent, supplementary letters patent or by-laws, a notice or other document served by mail by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of mail. Time of service 1953, c. 19, s. 331.

333. Proof of any matter that is necessary to be made under this Act may be made by certificate. 1953, c. 19, s. 332. Proof of matters under this Act

334. A corporation that insures property with or insures the property of other persons, where such insurance is reciprocal and for protection only and not for profit, shall not be deemed to be an insurer or an insurance corporation within the meaning of this Act. Reciprocal insurance 1953, c. 19, s. 333.

335. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing a tariff of fees to be paid on applications, returns, filings, searches, copies of documents and any other transaction under this Act, and such fees may vary in amount, having regard to the nature of the corporation, the authorized capital or otherwise, as is deemed expedient;
- (b) respecting any matter that he deems requisite for carrying out the objects of this Act, and, without limiting the generality of the foregoing, respecting names of corporations or classes thereof, objects of corporations, authorized capital of companies, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of shares of companies, or any other matter pertaining to letters patent, supplementary letters patent or orders or the applications therefor. 1953, c. 19, s. 334.

Fees to be
paid in
advance

336. No letters patent and no supplementary letters patent shall be issued and no order shall be made and no document shall be accepted for filing under this Act until all fees therefor have been paid. 1953, c. 19, s. 335.

Removal of
proceedings
into
Supreme
Court

337.—(1) Where proceedings under this Act are brought in a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be moved into the Supreme Court.

Transmis-
sion of
proceedings

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the proceedings are brought.

Removal of
proceedings

(3) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court. 1953, c. 19, s. 337 (1-3).

Reference
to Master

(4) Where an application is made to or is removed into the Supreme Court, the court may refer any question to the Master or other officer for inquiry and report. 1953, c. 19, s. 336 (4), *amended*.

Appeal

338. An appeal lies to the Court of Appeal from any order made by a court under this Act. 1953, c. 19, s. 337.

Untrue
state-
ments

339. Every person who makes or assists in making a statement in any return, certificate, financial statement or other document required by or for the purposes of this Act, knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both. 1954, c. 14, s. 40.

General
penalty

340. Every corporation that, and every person who, being a director or officer of the corporation, or acting on its behalf, commits any act contrary to any provision of this Act, or fails or neglects to comply with any such provision, is guilty of an offence and on summary conviction, if no penalty for such act, failure or neglect is expressly provided by this Act, is liable to a fine of not more than \$200. 1953, c. 19, s. 339.

341. Where a shareholder or member or creditor of a corporation is aggrieved by the failure of the corporation or a director, officer or employee of the corporation to perform any duty imposed upon it or him by this Act, the shareholder, member or creditor, notwithstanding the imposition of any penalty and in addition to any other rights that he may have, may apply to the court for an order directing the corporation, director, officer or employee, as the case may be, to perform such duty, and upon such application the court may make such order or such other order as the court thinks fit. 1953, c. 19, s. 340.

342. The Lieutenant Governor in Council may relieve a corporation incorporated before the 30th day of April, 1954, from compliance with any provision of this Act. 1953, c. 19, s. 341.

PART IX

EXTRA-PROVINCIAL CORPORATIONS

343. In this Part,

Interpre-
tation

- (a) "extra-provincial corporation" means a corporation incorporated otherwise than by or under the authority of an Act of the Legislature;
- (b) "regulations" means the regulations made under this Part. 1953, c. 19, s. 342.

344. Extra-provincial corporations shall be divided into the following classes:

Classes
of extra-
provincial
corporations

Class 1. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by charter of the Government of that Province.

Class 2. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations that had before the 1st day of July, 1900, received from the Government of Ontario a licence to carry on business in Ontario, or that have been authorized by an Act of the Legislature to carry on business in Ontario while such licence or Act is in force.

R.S.O. 1960,
c. 190, 194,
222

Class 4. Corporations licensed or registered under *The Insurance Act*, *The Investment Contracts Act* or *The Loan and Trust Corporations Act*.

Class 5. Corporations not having gain for any of their objects.

Class 6. Corporations incorporated by or under the authority of an Act of the Parliament of Canada and authorized to carry on business in Ontario.

Class 7. Corporations exempted from this Part by the Lieutenant Governor in Council.

R.S.O. 1960,
c. 73

Class 8. Corporations within the meaning of sections 7 to 11 of *The Corporations Tax Act*.

R.S.O. 1960,
c. 217

Class 9. Corporations engaged in the brewery, distillery or wine industry that are licensed under *The Liquor Control Act*.

Class 10. Corporations, other than those mentioned in classes 1 to 9, incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, authorized to carry on business in Upper Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 11. Corporations not within classes 1 to 10. 1953, c. 19, s. 343; 1958, c. 14, s. 2.

Reciprocal
legislation as
to exemp-
tion from
licensing

345.—(1) Where it appears that legislation is in force in any other province of Canada exempting corporations incorporated under the law of Ontario from any Act corresponding with this Part, the Lieutenant Governor in Council may exempt corporations incorporated under the law of such other province from this Part. 1953, c. 19, s. 344.

General
exempting
power

(2) Notwithstanding subsection 1, the Lieutenant Governor in Council may exempt any class or classes of extra-provincial corporations from this Part. 1955, c. 9, s. 19.

Carrying on
business
without
licence
prohibited

346.—(1) No extra-provincial corporation within class 10 or 11 mentioned in section 344 shall carry on in Ontario any of its business unless a licence under this Part or a predecessor of this Part so to do has been issued to it and unless such licence is in force, and no person, as the representative or agent of or acting in any other capacity for any such

extra-provincial corporation, shall carry on any of its business in Ontario unless it has received such licence and unless such licence is in force. 1953, c. 19, s. 345 (1); 1955, c. 9, s. 20.

(2) If an extra-provincial corporation has no resident Exception agent or representative or no office or place of business in Ontario, the taking of orders for or the buying or selling of goods, wares and merchandise by travellers or by correspondence shall not be deemed a carrying on of business within the meaning of this Part. 1953, c. 19, s. 345 (2).

347.—(1) An extra-provincial corporation within class 10 Application for licence mentioned in section 344 may apply to the Lieutenant Governor for a licence to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario.

(2) Upon the application for a licence, the applicant shall Proof to be furnished on application establish to the satisfaction of the Provincial Secretary, or such officer as is charged by him to report thereon, that this Part and the regulations have been complied with, and the Provincial Secretary or such officer may, for that or for any other purpose under this Part, take evidence under oath. 1953, c. 19, s. 346.

348. No limitations or conditions shall be included in any Conditions of licence such licence that would limit the rights of an extra-provincial corporation within class 10 mentioned in section 344 to carry on in Ontario such part of its business and to exercise in Ontario such part of its powers as by its Act or instrument of incorporation it is authorized to carry on and exercise therein. 1953, c. 19, s. 347.

349. Where an extra-provincial corporation within class 10 Right to licence when within class 10 mentioned in section 344 complies with this Part and the regulations, the Lieutenant Governor shall issue a licence to it to carry on its business and to exercise its powers in Ontario. 1953, c. 19, s. 348.

350.—(1) Where an extra-provincial corporation within class 11 mentioned in section 344 complies with this Part and the regulations, the Lieutenant Governor may in his discretion Right to licence when within class 11 issue a licence to it to carry on the whole or such part of its business and to exercise the whole or such part of its powers in Ontario as is embraced in the licence, subject, however, to such limitations and conditions as is specified therein.

(2) A licence shall not be issued to an extra-provincial Name corporation within class 11 mentioned in section 344 if its name is objectionable. 1953, c. 19, s. 349.

Powers of
Provincial
Secretary

351. The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor under this Part. 1953, c. 19, s. 350.

Notice

352. The Provincial Secretary shall cause notice of the issue of a licence under this Part to be given in *The Ontario Gazette*, and a copy of the *Gazette* containing the notice is admissible in evidence as *prima facie* proof in all proceedings by and against the corporation and otherwise under this Part or otherwise of the issue of the licence and of the terms thereof mentioned in the notice, and a copy of the licence certified by the Provincial Secretary or his deputy is sufficient evidence of the licence before all courts and tribunals. 1953, c. 19, s. 351.

Power to
hold land

353. Every extra-provincial corporation having a licence under this Part or a predecessor of this Part, and every extra-provincial corporation exempted under subsection 1 of section 345 from this Part, has power, subject to its Act or instrument of incorporation, to acquire by purchase, lease or otherwise, to hold, to mortgage, to sell, to alienate and to convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking. 1960, c. 13, s. 2.

Cancellation
of licence

354.—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he deems fit, cancel any licence issued under this Part or a predecessor of this Part.

Publication
of notice

(2) The Provincial Secretary shall cause notice of the cancellation of a licence under this section to be given in *The Ontario Gazette*. 1955, c. 9, s. 22.

Offence

355. Any extra-provincial corporation within class 10 or 11 mentioned in section 344 or its representative or agent that carries on in Ontario any part of its business contrary to section 346 is guilty of an offence and on summary conviction is liable to a fine of \$50 for every day upon which it or he so carries on business. 1953, c. 19, s. 354.

Prohibition
of actions

356.—(1) So long as an extra-provincial corporation within class 11 mentioned in section 344 is unlicensed, it is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in whole or in part in Ontario in the course of or in connection with business carried on contrary to section 346.

(2) Upon the issue or restoration of a licence, or the removal^{Idem} of any suspension thereof, such action or other proceeding may be maintained as if the licence had been granted or restored or the suspension had been removed before the institution thereof. 1953, c. 19, s. 355.

357. There shall be paid for a licence under this Part^{Fees on licences} such fee as is prescribed by the Lieutenant Governor in Council. 1953, c. 19, s. 356.

358. The Lieutenant Governor in Council may make regu-^{Regulations}lations,

- (a) respecting the evidence required upon an application for a licence under this Part as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the forms of licences, powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Part;
- (e) prescribing fees for licences under this Part. 1953, c. 19, s. 357, *amended*.

359.—(1) The Provincial Secretary shall, after the close^{Annual report} of each fiscal year, prepare an annual report showing the licences issued under this Part during such year, the authorized capital of each corporation licensed and the fee paid for each licence.

(2) The Provincial Secretary shall submit the report to^{Tabling of report} the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1953, c. 19, s. 358.

CHAPTER 72

The Corporations Information Act

1. In this Act,

Interpre-
tation

- (a) "corporation" means a corporation with or without share capital, whether acting as a trustee or not;
- (b) "regulations" means the regulations made under this Act;
- (c) "security" means security as defined in *The Securities Act*, except that in subsection 4 of section 3, "securities" means securities as defined in *The Corporations Act*. 1953, c. 21, s. 1. R.S.O. 1960,
c. 363
R.S.O. 1960,
c. 71

2.—(1) Every corporation of a class prescribed by the regulations, before the sale in Ontario of an issue of securities or a part thereof, other than an issue in respect of which a prospectus has been filed, shall file with the Provincial Secretary, together with the prescribed fee, a prospectus containing the information prescribed by the regulations and verified by a person and in the manner prescribed by the regulations. Filing of
prospectus

(2) Where a corporation fails to comply with subsection 1, every director and officer of the corporation and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or both. 1953, c. 21, s. 2. Offence

3.—(1) On or before the 1st day of June in each year, without notice or demand to that effect, every corporation incorporated under the law of Ontario and every other corporation having its head or other office or carrying on business or a part thereof in Ontario, unless licensed or registered under *The Insurance Act* or *The Loan and Trust Corporations Act*, or unless of a class exempted by the regulations, shall make out, verify and file with the Provincial Secretary, together with the prescribed fee, a return stating, as of the 31st day of March next preceding, Annual
returns

- (a) its name;

- (b) the jurisdiction under which it was incorporated;
- (c)
 - (i) the manner of its incorporation, whether by special Act, letters patent, registration or otherwise,
 - (ii) the date of its incorporation;
- (d) whether or not it is carrying on business;
- (e) generally the business that it is actually carrying on;
- (f)
 - (i) the number of directors authorized,
 - (ii) the names and residence addresses, giving street and number, if any, of the persons who are directors, the date on which each became a director,
 - (iii) the names and residence addresses, giving street and number, if any, of the persons who have been since the date of the last annual return but who are no longer directors, the dates on which each became a director and ceased to be a director;
- (g) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and manager;
- (h) the location of its head office, giving street and number, if any;
- (i) the date on which its last annual meeting was held;
- (j) the total amount of its bond or debenture debt authorized, the amount outstanding and the rate of interest,

corporations and, in the case of a corporation with share capital, in addition,
with share capital

- (k)
 - (i) the particulars of its authorized share capital stating the number and class of shares, with or without par value, or both, and the par value, if any,
 - (ii) the date of its by-law, if any, authorizing the issue of shares as preference shares and stating the number of shares so authorized;

- (l) the number of each class of shares allotted, issued and outstanding and the amount paid thereon;
- (m)
 - (i) the number and class of shares upon which the whole amount has not been called up,
 - (ii) the amount called up on each such share,
 - (iii) the total amount of calls unpaid;
- (n) the total number of each class of shares forfeited and the amount paid thereon at the date of forfeiture;
- (o) the number and class of shares, if any, issued since the date of the last annual return, the extent to which the same are paid showing severally the number and class of shares issued for cash, services, commissions or property, and the consideration for which such shares were issued;
- (p) if share warrants are authorized and issued, the number and class of shares represented thereby;
- (q) the number of preference shares redeemed or purchased for cancellation,

and, where Part IV of *The Corporations Act* applies to the corporation, in addition, mining corporations
R.S.O. 1960,
c. 71

- (r) the number of its shares issued at a discount or premium;
- (s) the rate at which the shares mentioned in clause r were issued,

and, where the corporation is an extra-provincial corporation and is licensed to carry on business in Ontario, in addition, extra-provincial corporations

- (t) the name and office address of its attorney for service in ¹Ontario;
- (u) the ¹⁰¹name and ¹⁰²office address of its chief officer or manager ¹⁰³in ¹⁰⁴Ontario;
- (v) the location of its principal office in Ontario;
- (w) the estimated amount of capital used in Ontario;
- (x) in detail, the land in Ontario owned or held by it or on behalf of it. 1953, c. 21, s. 3 (1); 1957, c. 16, s. 1 (1), *amended*.

"Carrying
on business",
R.S.O. 1960,
cc. 71, 246

(2) A corporation that holds a licence under Part IX of *The Corporations Act*, or a predecessor of that Part or under *The Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection 1.

Verification

(3) The return mentioned in subsection 1 shall be verified by the certificate of the president or, in his absence, of a director of the corporation.

Private
companies,
additional
certificate

(4) Where the corporation is a private company incorporated under the law of Ontario, in addition to the information required by subsection 1, it shall append to the return mentioned therein a certificate signed by the president or, in his absence, by a director of the company that the company has not, since the date of the last annual return or, in the case of a first annual return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any of its shares or securities, and, where the number of shareholders of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under subclause ii of clause *f* of section 1 of *The Corporations Act*, are excluded in reckoning the number of fifty.

Posting up

(5) The corporation shall post up a duplicate of the return mentioned in subsection 1 with the certificate of verification in a conspicuous position in its head or principal office in Ontario on or before the 2nd day of July in each year, and such duplicate may be inspected by any shareholder or member or creditor of the corporation, and the corporation shall keep the same so posted until the duplicate of another return is posted up in compliance with this Act.

Offence

(6) A corporation that fails to comply with this section is guilty of an offence and on summary conviction is liable to a fine of \$20 for each day of such failure and every director or officer of the corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario who authorizes, permits or acquiesces in any such failure, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 21, s. 3 (2-6).

Civil
penalty

(7) Notwithstanding the imposition of any other penalty under this Act, every corporation that has failed to comply with a predecessor of this section and every corporation that fails to comply with this section is liable to a penalty of \$200 and every director or officer of the corporation and, where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized,

permitted or acquiesced in, or who authorizes, permits or acquiesces in, any such failure is liable to a penalty of \$200, and any such penalty is recoverable in any court of competent jurisdiction by action at the suit of the Crown to be tried by a judge without a jury. 1957, c. 16, s. 1 (2), *part*.

(8) The president or a director of a corporation who knowingly makes a statement false in any material particular in a certificate required by this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both.

(9) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act*, 1907, except chapter 191 of the Revised Statutes of Ontario, 1897 and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital. 1953, c. 21, s. 3 (7, 8).

(10) A corporation required to file a summary under section 125 of the *Companies Act* (Canada) may file with the Provincial Secretary a duplicate of such summary, signed and verified as prescribed in that section, in lieu of the return required by subsection 1, and shall pay the fee prescribed for such return. 1953, c. 21, s. 3 (9); 1958, c. 15, s. 1 (1).

(11) The Provincial Secretary may in his discretion enlarge the time for filing any such return or summary and may grant an exemption in whole or in part from the payment of the fee. 1953, c. 21, s. 3 (10); 1958, c. 15, s. 1 (2).

(12) Notwithstanding that a corporation has delivered or filed the return mentioned in this section or a predecessor of this section, the corporation shall be deemed to be in default in filing such return until the prescribed fee payable on the delivery or filing of such return has been paid.

(13) A certificate purporting to be under the seal of office of the Provincial Secretary and the hand of the Provincial Secretary or his deputy that the return mentioned in this section or a predecessor of this section was not delivered or filed as required by this section or a predecessor of this section is admissible in evidence as *prima facie* proof in a prosecution or action under this section that such return was not so filed, without proof of the seal of office of the Provincial Secretary or of the signature or of the official character of the person appearing to have signed the same. 1957, c. 16, s. 1 (2), *part*.

Provincial
Secretary
may require
returns

4. The Provincial Secretary may at any time by notice require any corporation to make a return upon any subject connected with its affairs within the time specified in the notice, and on default in making such return every director of the corporation, and, where the corporation is an extra-provincial corporation every person acting as its representative in Ontario, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1953, c. 21, s. 4.

Liability of
directors,
promoters,
etc., for
untrue
statements
on soliciting
subscriptions

5.—(1) Where a prospectus, notice or other circular invites subscriptions for the securities of a corporation, every person who is a director of the corporation at the time of the issue of the prospectus, notice or other circular, and every person who having authorized such naming of him is named in the prospectus, notice or other circular as a director of the corporation, or as having agreed to become a director of the corporation, either immediately or after an interval of time, and every promoter of the corporation and every person who has authorized the issue of the prospectus, notice or other circular is liable to pay compensation to all persons who subscribe for any securities on the faith of the prospectus, notice or other circular for the loss or damage they may have sustained by reason of any untrue statement in the prospectus, notice or other circular or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved that,

- (a) having consented to become a director of the corporation he withdrew his consent before the issue of the prospectus, notice or other circular, and that the prospectus, notice or other circular was issued without his authority or consent; or
- (b) the prospectus, notice or other circular was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or
- (c) after the issue of the prospectus, notice or other circular and before allotment thereunder, he, on becoming aware of an untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of his withdrawal and of the reason therefor; or
- (d) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, he

had reasonable ground to believe and did, up to the time of the allotment of the securities, believe that the statement was true; or

- (e) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, but the director, person named as director, promoter or person who authorized the issue of the prospectus, notice or other circular is liable to pay compensation as aforesaid, if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; or
- (f) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document.

(2) In this section, “promoter” means a promoter who was a party to the preparation of the prospectus, notice or other circular or of the part thereof containing such untrue statement, but does not include any person by reason of his acting solely in a professional capacity for persons engaged in procuring the information of the company. 1953, c. 21, s. 5.

6. The Lieutenant Governor in Council may make regulations, ^{Interpretation} Regulations

- (a) prescribing the class or classes of corporations that shall file prospectuses under section 2;
- (b) prescribing the information to be contained in such prospectuses;
- (c) specifying the persons who shall verify such prospectuses and prescribing the manner of verifying such prospectuses;
- (d) prescribing the fees payable upon the filing of such prospectuses;
- (e) exempting any class or classes of corporations from filing returns under section 3;

- (f) prescribing the fees payable on the filing of returns under section 3, which fees may be made to vary in amount having regard to the nature of the corporation, the amount of the authorized capital, or otherwise;
 - (g) notwithstanding subsection 1 of section 3, specifying the information to be contained in the return mentioned therein;
 - (h) notwithstanding subsection 1 of section 3, specifying the date for the filing of the return and the date as of which the information is to be given in the return mentioned therein;
 - (i) notwithstanding subsection 3 of section 3, specifying the persons who may verify and prescribing the method of verifying the return mentioned therein;
 - (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1953, c. 21, s. 6.
-

CHAPTER 73

The Corporations Tax Act

PART I

INTERPRETATION

1.—(1) In this Act,Interpre-
tation

1. “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;
2. “annuity payment” includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
3. “assessment” includes a re-assessment;
4. “bank” means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere;
5. “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include office or employment;
6. “common share” is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
7. “Comptroller” means the Comptroller of Revenue;
8. “corporation” means a corporation however or wherever incorporated and, where a corporation or the whole or any part of the property thereof is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official,

includes such agent, assignee, trustee, liquidator, receiver or other official, but does not include a corporation incorporated without share capital;

9. "dividend" does not include a stock dividend;
10. "employed" means performing the duties of an office or employment;
11. "employee" includes officer;
12. "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
13. "employment" means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign, and "servant" or "employee" means a person holding such a position;
14. "exempt income" means money, rights or things received or acquired by a corporation in such circumstances that they are, by reason of any provision in Part III, not included in computing its income, and includes any amount that is deductible under subsection 1 of section 40;
15. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;
16. "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act, and, in the absence of an established practice, the fiscal year is that adopted by a corporation, but no fiscal year may exceed fifty-three weeks and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Treasurer;
17. "fishing" includes fishing for or catching shell fish, crustaceans and marine animals, but does not include an office or employment under a person engaged in the business of fishing;

18. "foreign business corporation" means a corporation defined by section 46 to be a foreign business corporation;
19. "gross revenue" means the aggregate of all amounts received or, depending upon the method regularly followed by the corporation in computing its profit, receivable in the fiscal year otherwise than as or on account of capital;
20. "income bond" or "income debenture" means respectively a bond or debenture in respect of which interest or dividends are payable only when the debtor corporation has made a profit before taking into account the interest or dividend obligation on such bond or debenture;
21. "insurance corporation" includes life, fire, ocean or inland marine, inland transportation, accident, plate-glass, automobile, steam-boiler and burglary insurance companies, guaranty, surety and casualty companies and underwriters and syndicates of underwriters operating on the plan known as Lloyds, that transact business or undertake risks on lives or property in Ontario or that are licensed under *The Insurance Act*, but does not include mutual insurance companies insuring agricultural and other non-hazardous risks on the premium note plan the sole business of which is carried on in Ontario, fraternal societies and mutual benefit societies as defined in *The Insurance Act*, and pension fund and employees' mutual benefit societies incorporated under or subject to *The Corporations Act*; R.S.O. 1960,
c. 190
22. "inventory" means a description of property the cost or value of which is relevant in computing the income of a corporation from a business for a fiscal year;
23. "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
24. "loss" means a loss computed by applying the provisions of this Act respecting the computation of income from a business *mutatis mutandis*, but not including in the computation a dividend or part of a dividend the amount of which would be deductible under subsection 1 of section 40 in computing taxable R.S.O. 1960,
c. 71

income, minus any amount by which a loss operated to reduce the income of a corporation from other sources for purpose of tax on income for the fiscal year in which it was sustained;

25. "non-resident" means not resident in Canada;
26. "non-resident owned investment corporation" means a corporation defined by section 45 to be a non-resident owned investment corporation;
27. "permanent establishment" has the meaning given to that expression by section 2;
28. "personal corporation" means a corporation defined by section 42 to be a personal corporation;
29. "prescribed", in the case of a form or the information to be given on a form, means prescribed by order of the Treasurer and, in any other case, means prescribed by the regulations;
30. "property" means property of any kind whatsoever whether real or personal or corporeal or incorporeal, and includes every interest or profit, legal or equitable, present or future, vested or contingent in, arising out of or incident to property;
31. "railway" includes a railway and part of a railway operated in whole or in part by steam, electricity or other motive power, constructed and operated on highways or on land owned by the corporation that owns or operates it, or partly on highways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or a by-law of a city or town;
32. "registered pension fund or plan" means an employees' superannuation or pension fund or plan accepted by the Treasurer for registration for the purposes of this Act in respect of its constitution and operations for the fiscal year under consideration;
33. "regulations" means the regulations made under this Act;
34. "share" means a share of capital stock of a corporation;

35. "shareholder" includes a member or other person entitled to receive payment of a dividend;
36. "a shareholder's portion of undistributed income of a corporation" has the meaning given to that expression by subsection 2 of section 55;
37. "subsidiary controlled corporation" means a corporation more than 50 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation to which it is subsidiary;
38. "subsidiary wholly-owned corporation" means a corporation all the issued share capital of which, except directors' qualifying shares, belong to the corporation to which it is subsidiary;
39. "tax payable" by a corporation under sections 3 to 13 means the tax payable by the corporation as fixed by assessment or re-assessment subject to variation on objection or appeal, if any, in accordance with sections 79 to 85, as the case may be;
40. "taxable income" has the meaning given to that expression by section 14;
41. "taxation year" means that fiscal year in relation to which the amount of a tax under this Act is being calculated when the expression is used to distinguish it from another fiscal year;
42. "Treasurer" means the Treasurer of Ontario;
43. "undistributed income on hand" has the meaning given to that expression by section 55. 1957, c. 17, s. 1 (1); 1960, c. 14, s. 1.

(2) For the purposes of this Act,

Arm's length

- (a) related persons shall be deemed not to deal with each other at arm's length; and
- (b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length. 1957, c. 17, s. 1 (2).

Related
persons

(3) For the purposes of subsections 2 and 5 and this subsection, "related persons", or persons related to each other, are,

(a) individuals connected by blood relationship, marriage or adoption;

(b) a corporation, and,

(i) a person who controls the corporation, if it is controlled by one person,

(ii) a person who is a member of a related group that controls the corporation, or

(iii) any person related to a person described by subclause i or ii;

(c) any two corporations,

(i) if they are controlled by the same person or group of persons,

(ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,

(iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,

(iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,

(v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or

(vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation. 1957, c. 17, s. 1 (3); 1958, c. 16, s. 1.

Corporations
related to
each other

(4) Where two corporations are related to the same corporation within the meaning of subsection 3, they shall, for the purposes of subsections 2 and 3, be deemed to be related to each other.

- (5) In subsections 3 and 6 and this subsection,

Interpre-
tation

- (a) "related group" means a group of persons each member of which is related to every other member of the group; and
- (b) "unrelated group" means a group of persons that is not a related group.

- (6) For the purpose of subsection 3,

Controlled
by related
group,
options, etc.

- (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled; and
- (b) a person who has a right under a contract, in equity or otherwise, either immediately or in the future or either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall be deemed to have had the same position in relation to the control of the corporation as if he owned the shares.

- (7) For the purpose of clause *a* of subsection 3,

Persons
related by
blood
relationship,
etc.

- (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship, other than as a brother or sister, to the other. 1957, c. 17, s. 1 (4-7).

2.—(1) In this Act, "permanent establishment" includes Permanent
branches, mines, oil wells, farms, timberlands, factories, establish-
ment
workshops, warehouses, offices, agencies, and other fixed
places of business. 1957, c. 17, s. 2 (1); 1958, c. 16, s. 2 (1).

(2) Where a corporation carries on business through an *Idem*
employee or agent who has general authority to contract for
the corporation or who has a stock of merchandise owned by

the corporation from which he regularly fills orders that he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation. 1958, c. 16, s. 2 (2).

Idem

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

Idem

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

Idem

(5) Notwithstanding subsection 3, an insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered to do business. 1957, c. 17, s. 2 (3-5).

Idem

(6) The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office. 1957, c. 17, s. 2 (6); 1958, c. 16, s. 2 (3).

Idem

(7) Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province, such land is a permanent establishment. 1958, c. 16, s. 2 (4).

Idem

(8) The fact that a non-resident corporation in a fiscal year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the fiscal year.

Idem

(9) The use of substantial machinery or equipment in a particular place at any time in a fiscal year of a corporation constitutes a permanent establishment of such corporation in that place for the fiscal year. 1957, c. 17, s. 2 (8, 9).

Idem

(10) A corporation has a permanent establishment in the place designated in its charter or by-laws as being its head office. 1960, c. 14, s. 2.

PART II

LIABILITY FOR TAXES

3.—(1) Every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. ^{Taxes payable}

(2) For the purposes of this Act, where a fiscal year is referred to by a reference to a calendar year, the reference is to the fiscal year or years coinciding with, or ending in, that year. ^{Fiscal year}

(3) Where a corporation ceases to have a permanent establishment in Ontario during a fiscal year or the existence of a corporation is terminated during a fiscal year, it shall, in respect of such incomplete fiscal year, pay the taxes imposed by this Act in the same manner as though such fiscal year ended on the date on which it ceased to have a permanent establishment in Ontario or upon which its existence was terminated, as the case may be. 1957, c. 17, s. 3. ^{Incomplete fiscal year}

4.—(1) Except as provided otherwise in this Act, every corporation that has a permanent establishment in Ontario shall, for every fiscal year of the corporation, pay a tax of 11 per cent calculated on its taxable income. ^{Income tax}

(2) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to 11 per cent of that portion of its taxable income which is earned in the fiscal year in each jurisdiction other than Ontario. ^{Deductions from tax on income—allocation of taxable income}

(3) Where in a fiscal year a corporation has no permanent establishment outside Ontario, all of its taxable income for the year shall be deemed to have been earned in Ontario. ^{Allocation of taxable income}

(4) Where in a fiscal year a corporation had no permanent establishment in Ontario, all of its taxable income for the fiscal year shall be deemed to have been earned in jurisdictions outside Ontario. ^{Idem}

(5) Except as otherwise provided, where in a fiscal year a corporation had a permanent establishment in Ontario and a permanent establishment in any other jurisdiction, the ^{Idem}

amount of its taxable income that shall be deemed to have been earned in the fiscal year in that jurisdiction is one-half the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction is of its total gross revenue for the fiscal year; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the fiscal year by the corporation to the employees of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

1957, c. 17, s. 4 (1-5).

Gross
revenue
attributable
to a
permanent
establish-
ment

(6) For the purpose of subsection 5 of this section and subsection 6 of section 5,

- (a) except as provided in clause *d*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction in which the corporation making the sale has a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment;
- (b) except as provided in clauses *c*, *d* and *e*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction in which the corporation making the sale has no permanent establishment, the gross revenue derived therefrom is attributable to the permanent establishment to which the person negotiating the sale may reasonably be regarded as being attached;
- (c) except as provided in clause *e*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction outside Canada in which the corporation making the sale has no permanent establishment,
 - (i) if the merchandise was produced or manu-
factured, or produced and manufactured,
entirely in one province or territory of Canada
by the corporation, the gross revenue derived
therefrom is attributable to its permanent
establishment in that province or territory, or

- (ii) if the merchandise was produced or manufactured, or produced and manufactured, partly in a province or territory of Canada and partly in another place by the corporation, the gross revenue derived therefrom that is attributable to its permanent establishment in that province or territory is that proportion thereof that the salaries and wages paid in the fiscal year to employees of the permanent establishment in that province or territory where the merchandise was partly produced or manufactured, or partly produced and manufactured, is of the aggregate of the salaries and wages paid in the fiscal year to employees of the permanent establishments where the merchandise was produced or manufactured, or produced and manufactured;
- (d) for the purposes of clauses *a* and *b* and except as provided in clause *e*, where a customer to whom merchandise is sold instructs that shipment thereof be made to another person, the destination of the shipment of the merchandise shall be deemed to be in the jurisdiction in which the permanent establishment of the customer negotiating the purchase of the merchandise is situated;
- (e) for the purpose of clause *c*, where a customer to whom merchandise is sold instructs that shipment be made to another person and the permanent establishment of the customer negotiating the purchase of the merchandise is situated in a jurisdiction outside Canada in which the corporation making the sale has no permanent establishment,
 - (i) if the merchandise was produced or manufactured, or produced and manufactured, entirely in one province or territory of Canada by the corporation, the gross revenue derived therefrom is attributable to its permanent establishment in that province or territory, or
 - (ii) if the merchandise was produced or manufactured, or produced and manufactured, partly in a province or territory of Canada and partly in another place by the corporation, the gross revenue derived therefrom that is attributable to its permanent establishment

in that province or territory is that proportion thereof that the salaries and wages paid in the fiscal year to employees of the permanent establishment in that province or territory where the merchandise was partly produced or manufactured, or partly produced and manufactured, is of the aggregate of the salaries and wages paid in the fiscal year to employees of the permanent establishments where the merchandise was produced or manufactured, or produced and manufactured;

- (f) where services are performed by a corporation in a jurisdiction in which the corporation has a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment;
- (g) where services are performed by a corporation in a jurisdiction in which the corporation has no permanent establishment, the gross revenue derived therefrom is attributable to the permanent establishment to which the person negotiating the contract may reasonably be regarded as being attached;
- (h) where standing timber or the right to cut standing timber is sold, the gross revenue derived therefrom is attributable to the permanent establishment that includes the timberlands on which the timber is standing; and
- (i) where land is a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment. 1958, c. 16, s. 3 (1), *part*; 1959, c. 20, s. 1 (1).

Fees to be
deemed
salary

(7) For the purposes of subsections 5, 13, 28, 29, 30 and 31 of this section and the corresponding subsections of section 5, where a corporation pays a fee to a person under an agreement pursuant to which the person or employees of that person perform services for the corporation that would normally be performed by employees of the corporation, the fee so paid shall be deemed to be salary paid in the fiscal year by the corporation and that part of the fee that may reasonably be regarded as payment in respect of services rendered at a particular permanent establishment of the corporation shall be deemed to be salary paid to an employee of that permanent establishment.

(8) For the purpose of subsection 7, a fee does not include Exception a commission paid to a person who is not an employee of the corporation. 1958, c. 16, s. 3 (1), *part*.

(9) For the purpose of subsection 5 of this section and Allocation of investment income subsection 6 of section 5, interest on bonds, debentures and mortgages, dividends on shares of capital stock and rentals and royalties for property that is not used in the regular business operations of a corporation shall be excluded when calculating the gross revenue of the corporation or any part thereof.

(10) Notwithstanding subsection 5, the proportion of the Insurance corporations, allocation of taxable income taxable income of an insurance corporation that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable income for the fiscal year that the aggregate of,

- (a) its net premiums for the year in respect of insurance on properties situated in that jurisdiction; and
- (b) its net premiums for the year in respect of insurance, other than on property, from contracts from persons resident in that jurisdiction,

is of the total net premiums for the fiscal year of the corporation.

(11) In subsection 10, "net premiums" of a corporation for Interpretation a fiscal year means the aggregate of the gross premiums received by the corporation in the fiscal year, other than consideration received for annuities, minus the aggregate for the fiscal year of,

- (a) premiums paid for re-insurance;
- (b) dividends or rebates paid or credited to policyholders; and
- (c) rebates or returned premiums paid in respect of the cancellation of policies,

by the corporation.

(12) In subsection 10, "total net premiums" of a corporation for a fiscal year means the aggregate of,

- (a) its net premium income in respect of insurance on property situate in each province or territory of Canada and each country other than Canada in

which the corporation has a permanent establishment; and

- (b) its net premium income in respect of insurance other than on property, from contracts with persons resident in each province or territory of Canada and each country other than Canada in which the corporation has a permanent establishment.

Banks
allocation of
taxable
income

(13) Notwithstanding subsection 5, the amount of taxable income of a bank that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-third of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the year by the bank to the personnel of its permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the bank; and
- (b) twice that proportion of its taxable income for the fiscal year that the aggregate amount of loans and deposits of its permanent establishments in that jurisdiction for the fiscal year is of the aggregate of all loans and deposits of the bank for the fiscal year.

Idem

(14) For the purpose of subsection 13, the amount of loans for a fiscal year is one-twelfth of the aggregate of the amounts outstanding on the loans made by the bank at the close of business on the last day of each month in the fiscal year.

Idem

(15) For the purpose of subsection 13, the amount of deposits for a fiscal year is one-twelfth of the aggregate of the amounts on deposit with the bank at the close of business on the last day of each month in the fiscal year.

Idem

(16) For the purpose of subsections 14 and 15, loans and deposits do not include bonds, stocks, debentures, items in transit and deposits in favour of Her Majesty in right of Canada.

Trust and
loan
corporations,
allocation of
taxable
income

(17) Notwithstanding subsection 5, the amount of taxable income of a trust and loan corporation or a trust corporation or a loan corporation that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable income for the fiscal year that the gross revenue of its permanent establishments in that jurisdiction for the fiscal year is of the total gross revenue for the fiscal year of the corporation.

(18) For the purpose of subsection 17, the “gross revenue of its permanent establishments in that jurisdiction” for a fiscal year means the aggregate of the gross revenue of the corporation for the fiscal year arising from, ^{Interpretation}

- (a) loans secured by real property situated in that jurisdiction;
- (b) loans not secured by real property to persons residing in that jurisdiction;
- (c) loans administered by the permanent establishments of the corporation in that jurisdiction made to persons residing in another jurisdiction in which the corporation has no permanent establishment but not including loans secured by real property situated in another jurisdiction in which the corporation has a permanent establishment; and
- (d) business conducted at the permanent establishments of the corporation in that jurisdiction, other than revenue in respect of loans. 1957, c. 17, s. 4 (7-16).

(19) Notwithstanding subsection 5, the amount of taxable income of a railway corporation that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is, unless subsection 20 applies, one-half the aggregate of, ^{Railway corporations, allocation of taxable income}

- (a) that proportion of its taxable income for the fiscal year that its equated track miles in that province or territory of Canada is of its equated track miles in Canada; and
- (b) that proportion of its taxable income for the fiscal year that its gross ton-miles for the fiscal year in that province or territory of Canada is of its gross ton-miles for the fiscal year in Canada.

(20) Where a corporation to which subsection 19 would apply if this subsection did not apply thereto operates an airline service, operate ships, operates hotels or receives substantial revenues that are petroleum or natural gas royalties, or does a combination of two or more of those things, the amount of its taxable income that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of the amounts computed, ^{Idem}

- (a) by applying the provisions of subsection 25 to that part of its taxable income for the fiscal year that

might reasonably be considered as having arisen from the operation of the airline service;

- (b) by applying the provisions of subsection 31 to that part of its taxable income for the fiscal year that might reasonably be considered as having arisen from the operation of the ships;
- (c) by applying the provisions of subsection 5 to that part of its taxable income for the fiscal year that might reasonably be considered to have arisen from the operation of the hotels;
- (d) by applying the provisions of subsection 5 to that part of its taxable income for the fiscal year that might reasonably be considered to have arisen from the ownership by the corporation of petroleum or natural gas rights or any interest therein; and
- (e) by applying the provisions of subsection 19 to the remaining portion of its taxable income for the fiscal year.

Idem

(21) For the purpose of making an allocation required by clause *b* of subsection 20, a reference in subsection 31 to “salaries and wages paid in the fiscal year by the corporation to employees” shall be read as a reference to salaries and wages paid by the corporation to employees employed in the operation of permanent establishments, other than ships, maintained for the shipping business.

Idem

(22) For the purpose of making an allocation required by clause *c* of subsection 20,

- (a) a reference in subsection 5 to “gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction” shall be read as a reference to the gross revenue of the corporation from operating hotels in a province or territory of Canada outside Ontario;
- (b) a reference in subsection 5 to “total gross revenue for the fiscal year” shall be read as a reference to the total gross revenue of the corporation for the fiscal year from operating hotels; and
- (c) a reference in subsection 5 to “salaries and wages paid in the fiscal year by the corporation to the employees” shall be read as a reference to salaries and wages paid to employees engaged in the operations of its hotels.

(23) Notwithstanding subsection 9, for the purpose of ^{Idem} making an allocation required by clause *d* of subsection 20,

- (a) a reference in subsection 5 to “gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction” shall be read as a reference to the gross revenue of the corporation from the ownership by the corporation of petroleum and natural gas rights in lands in a province or territory of Canada outside Ontario and any interest therein;
- (b) a reference in subsection 5 to “total gross revenue for the fiscal year” shall be read as a reference to the total gross revenue of the corporation from ownership by the corporation of petroleum and natural gas rights and any interest therein; and
- (c) a reference in subsection 5 to “salaries and wages paid in the fiscal year by the corporation to employees” shall be read as a reference to salaries and wages paid to employees employed in connection with the corporation’s petroleum and natural gas rights and interests therein. 1959, c. 20, s. 1 (2).

(24) For the purpose of subsection 19, “the equated track ^{Interpretation} miles” in a specified place means the aggregate of,

- (a) the number of miles of first main track;
- (b) 80 per cent of the number of miles of other main tracks; and
- (c) 50 per cent of the number of miles of yard tracks and sidings,

in that place.

(25) Notwithstanding subsection 5, the amount of taxable ^{Airline corporations, allocation of taxable income} income of an airline corporation that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is an amount that is equal to one-quarter of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the capital cost of all fixed assets of the corporation, except aircraft, in that province or territory of Canada at the end of the fiscal year is of the capital cost of all its fixed assets, except aircraft, in Canada at the end of the fiscal year; and

- (b) that proportion of its taxable income that three times the number of revenue plane miles flown by its aircraft in that province or territory of Canada during the fiscal year is of the total number of revenue plane miles flown by its aircraft in Canada during the fiscal year.

Interpre-
tation

(26) For the purpose of subsection 25, "revenue plane miles flown" shall be weighted according to payload capacity of the aircraft operated.

Idem

(27) For the purpose of subsection 26, "payload capacity" of an aircraft means,

- (a) for a type of aircraft listed in the regulations, the number of pounds shown therein for that aircraft; and
- (b) for a type of aircraft not listed in the regulations, the average maximum commercial load expressed in pounds of the aircraft with fuel and oil tanks half full as determined by the Treasurer.

Grain
elevator
operators,
allocation of
taxable
income

(28) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the operation of grain elevators that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the number of bushels of grain received in the fiscal year in the elevators operated by the corporation in that jurisdiction is of the total number of bushels of grain received in the fiscal year in all the elevators operated by the corporation; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Bus and
truck
operators,
allocation of
taxable
income

(29) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the transportation of goods and passengers, other than by the operation of a railway, steamship or airline service, that shall

be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-half of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the number of miles travelled by its vehicles in that jurisdiction in the fiscal year is of the total number of miles travelled by its vehicles in the fiscal year; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

(30) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the operation of a pipeline for oil, gas or water that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is one-half of the aggregate of,

Pipeline
operators,
allocation
of taxable
income

- (a) that proportion of its taxable income for the fiscal year that the number of miles of pipe of the corporation in that province or territory of Canada is of the number of miles of pipe of the corporation in Canada; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that province or territory of Canada is of the aggregate of all salaries and wages paid in all its permanent establishments in Canada in the fiscal year by the corporation. 1957, c. 17, s. 4 (19-25).

(31) Notwithstanding subsection 5, the amount of taxable income of a corporation, the chief business of which is the operation of ships, that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of,

Navigation
companies,
allocation
of taxable
income

- (a) that portion of its allocable income for the fiscal year that the port-call-tonnage in that province or territory of Canada is of the port-call-tonnage in Canada; and

- (b) if its taxable income for the fiscal year exceeds its allocable income for the fiscal year, that portion of the excess that the aggregate of the salaries and wages paid in the fiscal year by the corporation to employees of any permanent establishment, other than a ship, in that province or territory of Canada, is of the aggregate of salaries and wages paid in the fiscal year by the corporation to employees of permanent establishments, other than ships, in Canada.

Interpre-
tation.

(32) For the purposes of subsection 31,

- (a) "allocable income for the fiscal year" means that portion of the taxable income of the corporation for the fiscal year that the port-call-tonnage in Canada is of the total port-call-tonnage;
- (b) "port-call-tonnage in Canada" means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports in Canada by the number of tons of the registered net tonnage of that ship;
- (c) "port-call-tonnage in that province or territory of Canada" means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports in that province or territory of Canada by the number of tons of registered net tonnage of that ship; and
- (d) "total port-call-tonnage" means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports anywhere by the number of tons of the registered net tonnage of that ship. 1958, c. 16, s. 3 (2).

Divided
businesses,
allocation
of taxable
income

(33) Where part of the business of a corporation for a fiscal year, other than a corporation described in subsection 10, 13, 17, 19, 25, 28, 29, 30 or 31, consisted of operations normally conducted by a corporation described in one of those subsections, the corporation and the Treasurer may agree to determine the amount of taxable income deemed to have been earned in the fiscal year in a jurisdiction outside Ontario as the aggregate of the amounts computed,

- (a) by applying the provisions of such of those subsections as would have been applicable if it had been

a corporation described therein to the portion of its taxable income for the fiscal year that might reasonably be considered to have arisen from that part of the business; and

- (b) by applying the provisions of subsection 5 to the remaining portion of its taxable income for the fiscal year. 1957, c. 17, s. 4 (27).

(34) Where a corporation that is incorporated under the laws of a jurisdiction outside Canada and that is not a non-resident owned investment corporation, a foreign business corporation or a corporation to which subsection 25 or 31 applies has a permanent establishment in Ontario, this section applies as though,

- (a) the corporation had no permanent establishment outside Canada;
- (b) the portion of its taxable income that is subjected to taxation under section 31 of the *Income Tax Act* (Canada) were its total taxable income; and <sup>R.S.C. 1952
c. 148</sup>
- (c) such total taxable income were allocated among the provinces and territories of Canada in accordance with subsections 5 to 24, subsections 28 to 30 and subsection 33, or such of those subsections as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments;

provided that, where a corporation to which this subsection applies ships merchandise to one or other of its permanent establishments outside Canada,

- (d) such shipment shall be deemed to be a shipment of merchandise to a customer to whom the merchandise is sold; and
- (e) its gross revenue in Canada subject to allocation under subsection 6 shall be the gross revenue of its permanent establishments in Canada including therein such amount as gross revenue from such shipment as is used under section 31 of the *Income Tax Act* (Canada) in determining the amount of

income of the corporation reasonably attributable to the business carried on by the corporation in Canada. 1959, c. 20, s. 1 (3).

Foreign
tax
credits

R.S.C. 1952,
c. 148

(35) Where a corporation has a permanent establishment in Ontario and has received income in the fiscal year in the form of dividends, interest, rents or royalties, which were derived from sources within a jurisdiction outside Canada in which the corporation has no permanent establishment and where such jurisdiction has imposed a tax on such income and where the corporation is entitled to a deduction from tax (hereinafter in this subsection referred to as "foreign tax credit") under section 41 of the *Income Tax Act* (Canada) with respect to the tax paid on such income to such jurisdiction, the corporation may deduct from the tax otherwise payable under this section an amount equal to the lesser of,

- (a) 9 per cent of the portion of such income that is subject to tax under subsection 1 of this section after the deductions provided by subsection 2 of this section have been made; or
- (b) the proportion of the deficiency between the foreign tax credit that would be allowed if no provincial tax abatement under section 40 of the *Income Tax Act* (Canada) were applicable and the foreign tax credit that would be allowed when the provincial tax abatement provided by section 40 of the *Income Tax Act* (Canada) has been applied which,

- (i) the amount of the provincial tax abatement allowed under section 40 of the *Income Tax Act* (Canada) with respect to income of the corporation earned in Ontario measured in accordance with subsection 2 thereof,

bears to,

- (ii) the amount of the provincial tax abatement allowed under section 40 of the *Income Tax Act* (Canada) with respect to all income of the corporation subject to such abatement. 1958, c. 16, s. 3 (3), *part.*

Special
provincial
abatement

(36) Where a province other than Ontario imposes a tax of general application on corporations as a percentage of net income and allows an abatement of such tax on a portion of net income deemed to have been earned in another jurisdiction

and such portion is different from the portion that would apply if it were measured pursuant to subsections 3 to 35 and where a corporation is taxable on net income under the taxing Act of that province and on taxable income under this Act, the deduction provided by subsection 2,

- (a) shall be reduced by the amount by which the amount of tax, if such tax were calculated at the rate of 10 per cent for the full fiscal year on the taxable income as determined under this Act, that would remain to be paid to that province after abatement of portions of such tax measured in accordance with the abatement provisions of the taxing Act of that province and regulations thereunder on portions of such taxable income that would be deemed to have been earned in jurisdictions outside that province is less than the amount of the tax abatement to that province that would apply under subsection 2 measured in accordance with subsections 3 to 35 if the rate of abatement under that subsection were 10 per cent; or
- (b) shall be increased by the amount by which the amount of tax, if such tax were calculated at the rate of 10 per cent for the full fiscal year on the taxable income as determined under this Act, that would remain to be paid to that province after abatement of portions of such tax measured in accordance with the abatement provisions of the taxing Act of that province and regulations thereunder on portions of such taxable income that would be deemed to have been earned in jurisdictions outside that province is more than the amount of tax abatement to that province that would apply under subsection 2 measured in accordance with subsections 3 to 35 if the rate of abatement under that subsection were 10 per cent;

but, in the case of a corporation to which subsection 34 applies, this subsection shall apply as though the corporation were one no part of the taxable income of which is deemed to be earned outside Canada and as though the taxable income on which it is subjected to taxation under section 31 of the *Income Tax Act* (Canada) were its total taxable income^{R.S.C. 1952, c. 148} and, in such case, the measurement of the abatement of portions of tax under subsection 2 as provided by clauses *a* and *b* of this subsection shall relate exclusively to such total taxable income as though it were earned exclusively through the activities of the corporation in Canada. 1958, c. 16, s. 3 (3), *part*; 1959, c. 20, s. 1 (4); 1960, c. 14, s. 3 (1, 2).

Exemptions: (37) No tax is payable under this section by a corporation for a fiscal year when that corporation was,

municipal
authorities

(a) a municipality in Canada, or a municipal or public body performing a function of government in Canada;

municipal
or provincial
corporations

(b) a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association, except as provided by section 58;

certain
organiza-
tions

(c) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which is payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof;

charitable
organiza-
tions

(d) a charitable organization, all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof;

non-profit
corporations

(e) a corporation that was constituted exclusively for charitable purposes, no part of the income of which was payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof, that has not since the 1st day of June, 1950, acquired control of any other corporation and that during the fiscal year,

(i) did not carry on any business,

(ii) had no debts incurred since the 1st day of June, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and

(iii) except in the case of a corporation that was constituted exclusively for charitable purposes before the 1st day of January, 1940, expended amounts² each of which is,

(A) an expenditure in respect of charitable activities carried on by the corporation itself,

(B) a gift to an organization in Canada the income of which for the period is exempt from tax under this section by virtue of clause *d*, or

(C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this section by virtue of this clause,

and the aggregate of which is not less than 90 per cent of the income of the corporation for the fiscal year;

- (f) a corporation that was constituted exclusively for ^{housing} the purpose of providing low-cost housing accom- ^{for aged}modation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;
- (g) a labour organization or society or a benevolent or ^{labour} fraternal benefit society or order; ^{organiza-}
^{tions}
- (h) a club, society or association organized and operated ^{non-profit} exclusively for social welfare, civic improvement, ^{organiza-}pleasure or recreation or for any other purpose except ^{tions}profit, no part of the income of which was payable to or otherwise available for the personal benefit of any proprietor, member or shareholder thereof;
- (i) a mutual insurance corporation that received its ^{mutual} premiums wholly from the insurance of churches, ^{insurance}corporations ^{corporations}schools or other charitable organizations;
- (j) a corporation incorporated or organized as a credit ^{credit} union or co-operative credit society if, ^{unions}
- (i) it was restricted to carrying on business in Ontario and it derived its revenues primarily from,

(A) loans made to or cashing cheques for members residing within Ontario,

(B) bonds of or guaranteed by the government of Canada or Ontario, or

(C) loans made to a co-operative credit society of which it is a member, or

(ii) the members thereof were corporations or associations,

(A) incorporated or organized as credit unions substantially all of which derived their revenues primarily from loans made to members or from bonds of or guaranteed by the government of Canada or Ontario,

(B) incorporated, organized or registered under co-operative legislation of Ontario and governed thereby, or

(C) incorporated or organized for charitable purposes,

or were corporations or associations no part of the income of which was payable to or otherwise benefited personally any shareholder or member thereof;

housing
corporations

(*k*) an institutional housing corporation, an institutional holding company or a limited dividend housing corporation within the meaning of those expressions as defined by the *National Housing Act* (Canada);

R.S.C. 1952,
c. 188

personal
corporations

(*l*) a corporation exempt by section 42 as a personal corporation;

foreign
business
corporations

(*m*) a corporation exempt by section 46 as a foreign business corporation;

co-
operatives

(*n*) a corporation exempt by subsection 1 of section 48 as a co-operative corporation;

pension
corporations

(*o*) a corporation incorporated solely in connection with or for the administration of a registered pension fund or plan;

farmers'
and
fishermen's
insurers

(*p*) an insurer who was engaged during the fiscal year in no other business than insurance if, in the opinion of the Treasurer, 50 per cent of the gross premium income for the fiscal year was in respect of the insurance of farm property, property used in fishing, or residences of farmers and fishermen. 1957, c. 17, s. 4 (29); 1958, c. 16, s. 3 (4); 1959, c. 20, s. 1 (5).

(38) Where it is necessary for the purpose of subsection 37 ^{Apportionment rule} to ascertain the taxable income of a corporation for a period that is part of a fiscal year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the fiscal year that the number of days in the period is of the number of days in the fiscal year. 1957, c. 17, s. 4 (30); 1960, c. 14, s. 3 (3).

(39) For the purpose of clause *e* of subsection 37,

(a) a corporation is controlled by another corporation ^{When deemed not to have acquired control of another corporation} if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to,

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of another corporation if it has not purchased or otherwise acquired for a consideration any of the shares in the capital stock of that other corporation;

(b) there shall be included in computing the income of ^{gifts} a corporation all gifts received by the corporation other than,

(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation for the purpose of gaining or producing income therefrom, or

(ii) a gift or portion of a gift in respect of which it is established that the donor has not been allowed a deduction under paragraph 1 of subsection 1 of section 39 or a gift made by a person who was not taxable under this section for the fiscal year in which the gift was made.

(40) In computing the income of a corporation for the ^{Rules} purpose of determining whether it is described by clause *e* of subsection 37 for a fiscal year,

(a) there may be deducted an amount not exceeding its income for the fiscal year preceding the taxation

year computed without including or deducting any amount under this subsection; and

- (b) there shall be included any amount that has been deducted under this subsection for the immediately preceding fiscal year.

Election
by new
charitable
corporation

(41) For the purpose of determining whether a corporation has complied with subclause iii of clause *e* of subsection 37 for its first fiscal year after its incorporation, the whole or any part of amounts expended by it in the immediately subsequent fiscal year shall, if it so elects, be deemed to have been expended by it in the first fiscal year and not in the subsequent fiscal year. 1957, c. 17, s. 4 (31-33).

Payment
of tax where
taxable
income of
preceding
fiscal year
is altered

(42) Where the tax payable by a corporation for the taxation year and for certain preceding fiscal years is altered by virtue of section 37 or 38, the difference between the amount that is the total of the taxes payable for all of those fiscal years and the amount that would have been the total of the taxes payable for all of those fiscal years if neither section 37 nor 38 had been applied shall be added to or deducted from, as the case may be, the amount of the tax payable by the corporation for the taxation year. 1959, c. 20, s. 1 (6).

Idem

(43) Where the tax payable by a corporation for the fiscal year during which a vessel within the meaning of section 32 is disposed of is altered by virtue of subsection 2 of section 33, the difference,

- (a) if section 37 does not apply, between the amount that is the amount of tax that is payable by the corporation for that fiscal year and the amount of tax that would be payable for that fiscal year if subsection 2 of section 33 had not applied; or
- (b) if section 37 applies, between the total of the taxes payable by the corporation for that fiscal year and certain preceding fiscal years under subsection 42 and the total of the taxes that would be payable by the corporation for that fiscal year and certain preceding fiscal years under subsection 42 if subsection 2 of section 33 had not applied,

shall be deducted from the tax otherwise payable by the corporation for the fiscal year during which the alteration calculated in accordance with subsection 2 of section 33 took place. 1959, c. 20, s. 1 (7).

5.—(1) Except as in this section otherwise provided, every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of one-twentieth of 1 per cent calculated on its taxable paid-up capital. 1958, c. 16, s. 4 (1). Rate of general capital tax

(2) The tax imposed by this section is not payable by any corporation that would be liable to a tax under section 7, 8, 9, 10, 11 or 13 if it were not for the provisions of section 12. 1958, c. 16, s. 4 (2), *part*. Exceptions

(3) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to one-twentieth of 1 per cent of that portion of the taxable paid-up capital which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario. Deductions from tax on paid-up capital, allocation of taxable paid-up capital

(4) Where in a fiscal year a corporation has no permanent establishment outside Ontario, all of its taxable paid-up capital for the fiscal year shall be deemed to have been used in Ontario. Allocation of taxable paid-up capital

(5) Where in a fiscal year a corporation has no permanent establishment in Ontario, all of its taxable paid-up capital shall be deemed to have been used in jurisdictions outside Ontario. Idem

(6) Except as otherwise provided, where in a fiscal year a corporation has a permanent establishment in Ontario and a permanent establishment in any other jurisdiction, the amount of its taxable paid-up capital that shall be deemed to have been used in the fiscal year in that other jurisdiction is one-half the aggregate of, Idem

- (a) that proportion of the taxable paid-up capital that the gross revenue for the fiscal year reasonably attributable to the permanent establishments in that jurisdiction is of its total gross revenue for the fiscal year; and
- (b) that proportion of its taxable paid-up capital that the aggregate of the salaries and wages paid in the fiscal year by the corporation to the employees of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation. 1957, c. 17, s. 5 (2-5).

Trust and
loan
corporations,
allocation of
taxable
paid-up
capital

(7) Notwithstanding subsection 6, the amount of taxable paid-up capital of a trust and loan corporation or a trust corporation or a loan corporation that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable paid-up capital that the gross revenue of its permanent establishments in that jurisdiction for the fiscal year is of the total gross revenue for the fiscal year of the corporation.

Interpre-
tation

(8) For the purpose of subsection 7, the provisions of subsection 18 of section 4 apply *mutatis mutandis*.

Grain
elevator
operators,
allocation
of taxable
paid-up
capital

(9) Notwithstanding subsection 6, the amount of taxable paid-up capital of a corporation, the chief business of which is the operation of grain elevators, that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

- (a) that proportion of its taxable paid-up capital that the number of bushels of grain received in the fiscal year in the elevators operated by the corporation in that jurisdiction is of the total number of bushels of grain received in the fiscal year in all the elevators operated by the corporation; and
- (b) that proportion of its taxable paid-up capital that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Bus and
truck
operators,
allocation
of taxable
paid-up
capital

(10) Notwithstanding subsection 6, the amount of taxable paid-up capital of a corporation, the chief business of which is the transportation of goods and passengers, other than by the operation of a railway, steamship or airline service, that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

- (a) that proportion of its taxable paid-up capital that the number of miles travelled by its vehicles in that jurisdiction in the fiscal year is of the total number of miles travelled by its vehicles in the fiscal year; and
- (b) that proportion of its taxable paid-up capital that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

(11) Notwithstanding subsection 6, the amount of taxable paid-up capital of a corporation, the chief business of which is the operation of a pipeline for oil, gas or water, that shall be deemed to have been used in a fiscal year in a province or territory of Canada outside Ontario is one-half the aggregate of,

Pipeline operators, allocation of taxable paid-up capital

- (a) that proportion of its taxable paid-up capital that the number of miles of pipe of the corporation in that province or territory of Canada is of the number of miles of pipe of the corporation in Canada; and
- (b) that proportion of its taxable paid-up capital that the aggregate of the salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that province or territory of Canada is of the aggregate of all salaries and wages paid in all its permanent establishments in Canada in the fiscal year by the corporation.

(12) Notwithstanding subsection 6, the amount of taxable paid-up capital of a corporation, the chief business of which is operating ships, that shall be deemed to have been used in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of,

Navigation companies, allocation of taxable paid-up capital

- (a) that portion of its allocable paid-up capital that the port-call-tonnage in that province or territory of Canada is of the port-call-tonnage in Canada; and
- (b) if its taxable paid-up capital exceeds its allocable paid-up capital, that portion of the excess that the aggregate of the salaries and wages paid in the fiscal year by the corporation to employees of any permanent establishment, other than a ship, in that province or territory of Canada is of the aggregate of salaries and wages paid in the fiscal year by the corporation to employees of permanent establishments, other than ships, in Canada.

(13) For the purpose of subsection 12, "allocable paid-up capital" means that portion of taxable paid-up capital of the corporation that the port-call-tonnage in Canada is of the total port-call-tonnage and clauses *b*, *c* and *d* of subsection 32 of section 4 apply *mutatis mutandis*. 1958, c. 16, s. 4 (2), *part*.

Interpretation

(14) Notwithstanding subsection 6, the amount of taxable paid-up capital of an airline corporation that shall be deemed to have been used in the fiscal year in a province or territory

Idem, airlines

of Canada outside Ontario is an amount that is equal to one-quarter of the aggregate of,

- (a) that proportion of its taxable paid-up capital for the fiscal year that the capital cost of all fixed assets of the corporation, except aircraft, in that province or territory of Canada at the end of the fiscal year is of the capital cost of all its fixed assets, except aircraft, in Canada at the end of the fiscal year; and
- (b) that proportion of its taxable paid-up capital that three times the number of revenue plane miles flown by its aircraft in that province or territory of Canada during the fiscal year is of the total number of revenue plane miles flown by its aircraft in Canada during the fiscal year.

Idem

(15) For the purposes of subsection 14, the provisions of subsections 26 and 27 of section 4 apply *mutatis mutandis*. 1957, c. 17, s. 5 (6, 7).

Paid-up
capital of
foreign
corporations

(16) In the case of a corporation to which subsection 34 of section 4 applies, the paid-up capital thereof shall, notwithstanding section 68, be deemed to be either,

R.S.C. 1952,
c. 148

- (a) the amount of which the portion of its taxable income which is subjected to taxation under section 31 of the *Income Tax Act* (Canada) would be 8 per cent; or
- (b) the amount that equals the difference between,
 - (i) the amount of the total assets of the corporation in Canada, and
 - (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada but excluding therefrom all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by any other corporation and all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater, and, in such case, this section applies as though the paid-up capital as so determined were the total

paid-up capital of the corporation and as though the corporation had no permanent establishments outside Canada. 1959, c. 20, s. 2.

(17) Except as provided by section 58, no tax is payable ^{Exemptions} under this section by a corporation for a fiscal year where that corporation was any of the corporations referred to in clauses *a* to *p* of subsection 37 of section 4. 1957, c. 17, s. 5 (8).

6.—(1) Except as in this section otherwise provided, ^{General place of business taxes} every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of \$50 for each such establishment in Ontario. 1957, c. 17, s. 6 (1).

(2) Except as in this section otherwise provided, every ^{Special business tax} corporation not having a permanent establishment in Ontario but which merely holds assets in Ontario or which merely maintains in Ontario an office solely for the purchase of merchandise or which, being a corporation incorporated under legislation of any jurisdiction other than Ontario, is required, in order to hold land in Ontario, to be licensed under *The Mortmain and Charitable Uses Act* and merely possesses such a licence or which, in order to have the right to carry on business in Ontario, is required to be licensed under Part IX of *The Corporations Act* and merely holds a licence under that Part or that carries on business in Ontario within the meaning of section 346 of *The Corporations Act*, shall for every fiscal year of the corporation, in addition to all other taxes for which it may be liable, pay a tax of \$50. 1958, c. 16, s. 5; 1960, c. 14, s. 4. ^{R.S.O. 1960, cc. 246, 71}

(3) The tax imposed by this section is not payable by any ^{Exceptions} corporation that would be liable to a tax under section 7, 8, 9, 10, 11 or 13 if it were not for the provisions of section 12.

(4) For the purpose of this section, permanent establish- ^{Idem}ments shall be deemed to be separate permanent establishments only in such cases where each of them is located apart from the other and apart from the head office or executive office of the corporation and, where a corporation closes one permanent establishment and subsequently opens another, the two permanent establishments shall be counted as one for the fiscal year.

(5) For the purpose of this section, where a corporation, ^{Agent's office} firm, broker, agent or other person is acting as the agent of more than one corporation, each of such corporations shall be deemed to have a permanent establishment in the office

or place of business of such corporation, firm, broker, agent or other person.

Reduction
in tax

(6) Every corporation the paid-up capital of which is less than \$100,000 shall for every fiscal year of the corporation, in lieu of the tax imposed by subsection 1, pay a tax of one-twentieth of 1 per cent calculated on its paid-up capital for each permanent establishment in Ontario, but in no case shall the tax imposed by this subsection be less than the amount which, when added to the amount of the tax imposed by section 5, totals \$20.

Tax payable
by certain
companies

(7) Every corporation,

R.S.O. 1960,
c. 242

(a) that is engaged in mining, the profits of which during the fiscal year are insufficient to be assessed for a tax under *The Mining Tax Act* and that does not hold as assets investments in the shares, bonds and obligations of other corporations and governments, municipal and school corporations having an original cost value of more than \$40,000;

(b) the charter of which has not been surrendered and the nominal head office of which is designated as being in Ontario and that, in the opinion of the Treasurer, has not commenced to do business or has ceased to do business and is entirely without assets,

shall for every fiscal year of the corporation, in lieu of the tax imposed by subsection 1, pay a tax of \$20.

Idem

(8) Except as provided in section 58, every corporation referred to in clauses *b, c, d, e, g, h, j, k, n* and *o* of subsection 37 of section 4 shall, in lieu of the tax imposed by subsection 1, 6 or 7, pay a tax of \$5. 1957, c. 17, s. 6 (2-7).

Banks,
taxes on
paid-up
capital

7.—(1) Every bank shall for every fiscal year thereof pay,

(a) a tax of one-fifth of 1 per cent on the paid-up capital stock thereof and one-tenth of 1 per cent on the reserve fund and undivided profits thereof;

(b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, but in the case of such additional offices, branches and agencies that were open during the fiscal year fewer than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that such offices, branches and agencies were open.

(2) Where the head office of a bank is outside Ontario and where it has not more than five offices, branches and agencies in Ontario, the Treasurer, having regard to the amount of business transacted in Ontario, may reduce the amount of tax imposed by clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of 1 per cent calculated on one-half of the paid-up capital stock. 1957, c. 17, s. 7. ^{Reduction in certain cases}

8.—(1) Every corporation that operates or uses a railway shall for every fiscal year thereof pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, operated or used in any municipality in Ontario, and of \$40 per mile for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional track, in territory without municipal organization in Ontario, but a corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed thirty miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario. ^{Railways, mileage tax}

(2) In addition to the tax imposed by subsection 1, every corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall for every fiscal year of the corporation pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario. ^{Additional tax}

(3) Switches, spurs and sidings shall not be included in the measurement of track for the purpose of this section. 1959, c. 20, s. 3. ^{Switches, etc., not to be included}

9. Every corporation that owns, operates or uses a line or a part of a line of telegraph in Ontario for gain, including every corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of 1 ^{Telegraph companies, special tax}

per cent upon the total amount of money invested by the corporation in such line or part thereof and the plant and works connected therewith; provided that a corporation that owns and a corporation that operates and uses any such line or part thereof are liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section, notwithstanding that the line or part thereof is owned, operated or used by more than one corporation. 1957, c. 17, s. 9.

Express
companies,
special tax

10. Every corporation that carries on the business of an express company over a railway in Ontario, including a corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of \$800 for each 100 miles or fraction thereof up to but not exceeding a tax of \$10,000. 1957, c. 17, s. 10.

Car
companies,
special tax

11. Every corporation, except a corporation that owns, operates or uses a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping or parlour or dining cars run upon or used upon any railway in Ontario, shall, for every fiscal year of the corporation, pay a tax of 1 per cent calculated upon the money invested in such cars in use in Ontario. 1957, c. 17, s. 11.

Deduction
from special
taxes

12. There may be deducted from the total of the taxes payable by a corporation under sections 5, 6, 7, 8, 9, 10 and 11 the tax payable by that corporation under section 4. 1957, c. 17, s. 12.

Insurance
companies

13.—(1) Every insurance corporation shall pay a tax of 2 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of business transacted in Ontario, other than considerations for annuities, after deducting from such premiums,

(a) cash value of dividends credited to policyholders;

(b) premiums returned;

(c) premiums paid in respect of re-insurance ceded to insurance corporations licensed to transact business in Ontario.

(2) In determining the amount of tax payable under subsection 1,

Premiums
in respect
of business
transacted
in Ontario

(a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and

(b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,

(i) such premium is earned wholly or partly in Ontario,

(ii) the business in respect of the policy is transacted wholly or partly in Ontario, or

(iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario.

(3) The tax imposed by subsection 1 is not payable in respect of premiums payable under a contract of marine insurance.

Exception

(4) In this section, "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air that are incidental to a sea voyage.

Marine
insurance

(5) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations organized under the laws of such jurisdiction and that transact business in Ontario shall pay, in addition to the tax otherwise

Unfair
discrimina-
tion

imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act.

Fiscal year (6) For the purposes of this Act, the fiscal year of every insurance corporation shall be deemed to end on the 31st day of December. 1957, c. 17, s. 13.

PART III

COMPUTATION OF TAXABLE INCOME

DIVISION A—TAXABLE INCOME

Taxable income **14.** The taxable income of a corporation for a fiscal year is its income for that year minus the deductions permitted by Division C. 1957, c. 17, s. 15.

DIVISION B—COMPUTATION OF INCOME

General Rules

World income **15.** The income of a corporation for a fiscal year for the purposes of this Part is its income for the fiscal year from all sources inside or outside Ontario and, without restricting the generality of the foregoing, includes income for the fiscal year from all businesses and property. 1957, c. 17, s. 16.

Income from business or property **16.** Subject to the other provisions of this Part, income for a fiscal year from the business or property of a corporation is the profit therefrom for the fiscal year. 1957, c. 17, s. 17.

Amounts Included in Computing Income

Amounts included in computing income, **17.** Without restricting the generality of section 15, there shall be included in computing the income of a corporation for a fiscal year,

dividends (a) amounts received in the fiscal year as, on account or in lieu of payment of, or in satisfaction of, dividends or annuity payments;

interest (b) amounts received in the fiscal year or receivable in the fiscal year, depending upon the method regularly followed by the corporation in computing its profit, as interest or on account or in lieu of payment of, or in satisfaction of, interest;

- (c) the income of a corporation from a partnership or ^{income from partnership or syndicate} syndicate for the fiscal year, whether or not it has withdrawn such income during the fiscal year;
- (d) the amount deducted as a reserve for doubtful debts ^{previous reserve for bad debts} in computing the income of a corporation for the immediately preceding fiscal year;
- (e) such part of an amount payable to the corporation ^{insurance proceeds expended} under a policy of insurance in respect of damage to property that is depreciable property of the corporation within the meaning of section 31 as has been expended by the corporation,
 - (i) within the fiscal year, and
 - (ii) within a reasonable time after the damage, on repairing the damage;
- (f) amounts received in the fiscal year on account of ^{bad debts recovered} debts in respect of which a deduction for bad debts had been made in computing the income of the corporation for a previous fiscal year, whether or not the corporation was carrying on the same business in the fiscal year during which such deduction was made;
- (g) amounts received by the corporation in the fiscal year that were dependent upon use of or ^{payments based on production or use} production from property, whether or not they were instalments of the sale price of the property, but instalments of the sale price of agricultural land shall not be included by virtue of this clause; and
- (h) amounts received by the corporation in the fiscal year under an ^{employees profit sharing plan} employees profit sharing plan established for the benefit of the employees of the corporation or of a corporation with which the first-mentioned corporation does not deal at arm's length. 1957, c. 17, s. 18.

18. Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of ^{Income and capital combined} interest or other payment in the nature of income and in part a payment in the nature of capital, the part of the payment that can reasonably be regarded as a payment of interest or other payment in the nature of income shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the income of the corporation receiving it. 1957, c. 17, s. 19.

Appropriation of property to shareholders

19.—(1) Where, in a fiscal year,

- (a) a payment has been made by a corporation to a corporation that is a shareholder therein otherwise than pursuant to a *bona fide* business transaction;
- (b) funds or property of a corporation have been appropriated in any manner whatsoever to or for the benefit of a corporation that is a shareholder therein; or
- (c) a benefit or advantage has been conferred by a corporation to a corporation that is a shareholder therein,

otherwise than,

- (i) on the reduction of its capital, the redemption of its shares or the winding up, discontinuance or reorganization of its business,
- (ii) by payment of a stock dividend, or
- (iii) by conferring on all holders of common shares in the capital of the corporation a right to buy additional common shares therein,

the amount or value thereof shall be included in computing the income of the corporation that is a shareholder therein for the fiscal year.

Loan to shareholder

(2) Where a corporation has in a fiscal year made a loan to a corporation that is a shareholder therein, the amount thereof shall be deemed to have been received by the corporation that is a shareholder therein as a dividend in the fiscal year unless,

- (a) the loan was made in the ordinary course of its business and the lending of money was part of its ordinary business and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time; or
- (b) the loan was repaid within one year from the end of the fiscal year of the lending corporation in which it was made and it is established by subsequent events or otherwise that the repayment was not made as a part of a series of loans and repayments.

(3) An annual or other periodic amount paid by a corporation to another corporation in respect of an income bond or income debenture shall be deemed to have been received by the receiving corporation as a dividend unless the corporation paying it is entitled to deduct the amount so paid in computing its income. Interest on income bonds

(4) This section is applicable in computing the income of a corporation that is a shareholder of the paying corporation for the purposes of this Part, whether or not the paying corporation had a permanent establishment in Ontario. 1957, c. 17, s. 20. Application

20. In computing the income for a fiscal year of a bank, there shall be included the amount by which the aggregate of the amounts, that at the end of the fiscal year are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Treasurer, having regard to all of the circumstances, in excess of the reasonable requirements of the bank. 1957, c. 17, s. 21. Certain reserves included in computing income—banks

Amounts Not Included in Computing Income

21. In computing the income of a corporation for a fiscal year, there shall not be included, Amounts not included in computing income:

- (a) an amount received under a war savings certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; war savings certificates
- (b) the income for the fiscal year of a non-resident corporation earned in Canada from the operation of a ship or aircraft owned or operated by such corporation, if the country where that corporation resides or maintains its chief place of business grants substantially similar relief for the fiscal year to a corporation that resides or has its chief place of business in Canada; ship or aircraft of non-resident corporation
- (c) an amount received as a result of prospecting that section 56 provides is not to be included. 1957, c. 17, s. 22; 1958, c. 16, s. 7. prospecting

Deductions Allowed in Computing Income

Deductions
allowed in
computing
income:

22.—(1) Notwithstanding clauses *a* and *b* of subsection 1 of section 23, there may be deducted in computing the income of a corporation for a fiscal year,

interest

(*a*) an amount paid in the fiscal year or payable in respect of the fiscal year, depending upon the method regularly followed by the corporation in computing its income, pursuant to a legal obligation to pay interest on,

(i) borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or

(ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt,

or a reasonable amount in respect thereof, whichever is the lesser;

share
transfer
and other
fees

(*b*) an amount payable in the fiscal year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the corporation or as an agent for the remittance to shareholders of the corporation of dividends declared by it;

idem

(*c*) an amount payable in the fiscal year as a fee to a stock exchange for the listing of shares of the capital stock of the corporation;

idem

(*d*) an expense incurred in the fiscal year in the course of printing and issuing a financial report to shareholders of the corporation or to any other person entitled by law to receive such report;

compound
interest

(*e*) an amount paid in the fiscal year pursuant to a legal obligation to pay interest on an amount that would be deductible under clause *a* if it were paid in the fiscal year or payable in respect of the fiscal year;

(f) an expense incurred in the fiscal year,

- (i) in the course of issuing or selling shares of the capital stock of the corporation, or

expense of
issuing
shares or
borrowing
money

- (ii) in the course of borrowing money used by the corporation for the purpose of earning income from a business or property, other than money used by the corporation for the purpose of acquiring property the income from which would be exempt,

but not including any amount in respect of,

- (iii) a commission or bonus paid or payable to a person to whom the shares would be issued or sold or from whom the money was borrowed or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or

- (iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;

(g) such part of a payment,

idem

- (i) repaying borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or

- (ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt,

made by the corporation in the fiscal year as is by section 18 required to be included in computing the income of the corporation receiving it;

(h) a reasonable amount as a reserve for,

reserve for
doubtful
debts

- (i) doubtful debts that have been included in computing the income of the corporation for that fiscal year or a previous fiscal year, and

- (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of the ordinary business of which was the lending of money;

bad debts

- (i) the aggregate of debts owing to the corporation,

- (i) that it has established to have become bad debts in the fiscal year, and

- (ii) that it has included, except in the case of debts arising from loans made in the ordinary course of business by a corporation part of the ordinary business of which was the lending of money, in computing its income for that fiscal year or a previous fiscal year;

employer's
contribution
to pension
funds

- (j) an amount paid by the corporation in the fiscal year or within sixty days from the end of the fiscal year to or under a registered pension fund or plan in respect of services rendered by employees of the corporation in the fiscal year, subject however as follows:

- (i) in any case where the amount so paid is the aggregate of amounts, each of which is identifiable as a specified amount in respect of an individual employee of the corporation, the amount deductible under this clause in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee or \$1,500, and

- (ii) in any other case, the amount deductible under this clause is the lesser of the amount so paid or an amount determined in the prescribed manner, not exceeding \$1,500 multiplied by the number of employees of the corporation in respect of whom the amount so paid by the corporation was paid by it,

plus such amount as may be deducted as a special contribution under section 51;

Idem

- (k) where a registered pension fund or plan contains a provision under which the corporation may provide superannuation or pension benefits for an employee or former employee of the corporation by making a lump sum payment to or under the fund or plan in

the fiscal year in which the employee or former employee,

- (i) becomes eligible to retire,
- (ii) retires or otherwise ceases to be employed by the corporation,
- (iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

an amount paid by the corporation in the fiscal year or within sixty days from the end of the fiscal year pursuant thereto as the lump sum in respect of an employee or former employee who, in the fiscal year, became eligible to retire, retired or otherwise ceased to be employed by the corporation or reached the age referred to in subclause iii, except to the extent that it is deductible under clause *j*;

- (l) such amount in respect of expenditures on scientific scientific research research as is permitted by section 47;
- (m) the capital element of each annuity payment, other capital element of annuities than a superannuation or pension benefit or a payment under a registered retirement savings plan, included in computing income for the fiscal year, that is to say, an amount equal to that part of the payment determined in the prescribed manner to have been a return of capital;
- (n) where a corporation is an insurance corporation, refund of premiums other than a life insurance corporation, such amounts in respect of payments made or credits allowed by the corporation to its policyholders as are permitted by section 49;
- (o) such amounts in respect of payments made by a patronage dividend corporation pursuant to allocation in proportion to patronage as are permitted by section 50;
- (p) such amount in respect of taxes on income for the mining or logging taxes fiscal year from mining or logging operations as is permitted by the regulations;
- (q) an amount paid by a corporation to a trustee in trust contributions under profit sharing plan for employees of such corporation or of a corporation with which such corporation does not deal at arm's length under an employees profit sharing plan as permitted by section 52;

contribu-
tions under
supplemen-
tary
unemploy-
ment benefit
plan

- (r) an amount paid by a corporation to a trustee under a supplementary unemployment benefit plan as permitted by section 53. 1957, c. 17, s. 23 (1); 1958, c. 16, s. 8 (1, 2); 1960, c. 14, s. 5 (1, 2).

Deduction
required in
computing
income:

- (2) Notwithstanding clauses *a* and *b* of subsection 1 of section 23, there shall be deducted in computing the income of a corporation for a fiscal year,

capital cost
of property

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is provided by the regulations;

allowance
for oil or gas
well, mine or
timber limit

- (b) such amount as an allowance in respect of an oil or gas well, mine or timber limit, if any, as is allowed to the corporation by the regulations. 1958, c. 16, s. 8 (3).

Share-
holder's
allowance
from
corporation
operating
oil or gas
wells

- (3) In computing the income of a corporation from shares it holds in another corporation the income of which is from the operation of an oil or gas well or a mine, there may be deducted such amount, if any, as is allowed by the regulations. 1957, c. 17, s. 23 (2).

Allowance
in respect of
oil or gas
wells, etc.

- (4) For greater certainty it is hereby declared that, in the case of a regulation made under clause *b* of subsection 2 allowing to a corporation an amount in respect of an oil or gas well or a mine,

- (a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells or mines in which the corporation has any interest; and
- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined. 1957, c. 17, s. 23 (3); 1958, c. 16, s. 8 (4).

Lessee's
share of
allowance

- (5) Where a deduction is allowed under clause *b* of subsection 2 in respect of a coal mine operated by a lessee, the lessor and the lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Treasurer may fix the proportions. 1957, c. 17, s. 23 (4); 1958, c. 16, s. 8 (5).

(6) For the purpose of clause *a* of subsection 1, where a corporation has borrowed money in consideration of its promise to pay a larger amount and to pay interest on the larger amount, ^{Borrowed money}

- (a) the larger amount shall be deemed to be the amount borrowed; and
- (b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used.

(7) For greater certainty it is hereby declared that, where ^{Idem} a corporation has used borrowed money to repay money borrowed previously, the borrowed money shall, for the purpose of clause *a* or *g* of subsection 1, be deemed to have been used for the purpose for which the money borrowed previously was used or was deemed by this subsection to have been used.

(8) Notwithstanding clauses *a* and *b* of subsection 1 of ^{Banks} section 23, there may be deducted, in computing the income for a fiscal year of a bank, such amount as is set aside or reserved for the fiscal year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, and is, in the opinion of the Treasurer, having regard to all the circumstances, not in excess of the reasonable requirements of the bank. 1957, c. 17, s. 23 (5-7).

(9) Notwithstanding clauses *a* and *b* of subsection 1 of ^{Utilities service connection} section 23, there may be deducted in computing the income from a business of a corporation for a fiscal year an amount paid by the corporation in the fiscal year to a person, other than a person with whom the corporation does not deal at arm's length, for the purpose of making a service connection to its place of business for the supply, by means of wires, pipes or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid,

- (a) to acquire property of the corporation; or
- (b) as consideration for the goods or services for the supply of which the service connection was undertaken or made. 1958, c. 16, s. 8 (6).

One-half
fees paid
to invest-
ment
counsel

(10) Notwithstanding clauses *a* and *b* of subsection 1 of section 23, there may be deducted, in computing the income of a corporation from shares or securities for a fiscal year, one-half the fees paid by the corporation in the fiscal year to an investment counsel for advice as to the advisability of purchasing or selling specific shares or securities.

Interpre-
tation

(11) For the purpose of subsection 10, "investment counsel" means a person whose principal business is advising others as to the advisability of purchasing or selling specific shares or securities.

Special
corporation
tax

(12) Notwithstanding clauses *a* and *b* of subsection 1 of section 23, there may be deducted in computing the income from the business of a corporation for a fiscal year all corporation taxes payable by the corporation in the fiscal year.

Interpre-
tation

(13) In subsection 12 and in this subsection,

(a) "corporation tax" means a tax imposed by the legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax;

(b) "corporation income tax" means a tax imposed by the Parliament of Canada or by the legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations. 1959, c. 20, s. 4.

Uncollect-
able portions
of proceeds
of disposition
of property

(14) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of depreciable property of the corporation of a prescribed class as determined for the purpose of section 31 is established by the corporation to have become a bad debt in a fiscal year, there may be deducted in computing its income for the fiscal year the lesser of,

(a) the amount so owing to the corporation; or

(b) the amount, if any, by which the capital cost to the corporation of that property, as determined for the purpose of section 31, exceeds the aggregate of the

amounts, if any, realized by the corporation on account of the proceeds of disposition. 1960, c. 14, s. 5 (3).

Deductions Not Allowed in Computing Income

23.—(1) In computing income, no deduction shall be made in respect of, Deductions not allowed in computing income:

- (a) an outlay or expense except to the extent that it was made or incurred by the corporation for the purpose of gaining or producing income from property or a business of the corporation; general limitations
- (b) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part; capital outlay
- (c) an outlay or an expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt; limitation re exempt income
- (d) the annual value of property except rent for property leased by the corporation for use in its business; annual value of property
- (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part; reserves, etc.
- (f) an amount paid by a corporation other than a personal corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930, payments on income bonds
 - (i) to afford relief to the debtor from financial difficulties, and
 - (ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest.

(2) In computing income, no deduction shall be made in respect of an outlay or expense otherwise deductible except to the extent that the outlay or expense was reasonable in the circumstances. Unreasonable expenses

Unpaid
amounts

(3) In computing the income of a corporation for a fiscal year, no deduction shall be made in respect of an otherwise deductible outlay or expense payable by the corporation to a person with whom it was not dealing at arm's length if the amount thereof has not been paid before the day one year after the end of the fiscal year; but, if an amount that was not deductible in computing the income of one fiscal year by virtue of this subsection was subsequently paid, it may be deducted in computing the income of the corporation for the fiscal year during which it was paid. 1957, c. 17, s. 24 (1-3).

Application
of
subs. 1, cl. c

(4) Clause *c* of subsection 1 does not apply in respect of an outlay or expense made or incurred by a corporation, at a time when more than 50 per cent of its property consisted of shares in the capital stock of, bonds, debentures, mortgages or hypothecs of or bills or notes of a subsidiary controlled corporation subsidiary to it, for the purpose of gaining or producing income in the form of dividends from any such corporation or in connection with property in the form of shares in the capital stock thereof. 1959, c. 20, s. 5 (2).

Chief source
of income

24.—(1) Where the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, its income for the fiscal year shall be deemed to be not less than its income from all sources other than farming minus the lesser of,

(a) its loss from farming for the fiscal year; or

(b) \$2,500 plus the lesser of,

(i) one-half of the amount by which its loss from farming for the fiscal year exceeds \$2,500, or

(ii) \$2,500. 1957, c. 17, s. 25 (1); 1959, c. 20, s. 6 (1).

Treasurer
may
determine

(2) For the purpose of this section, the Treasurer may determine that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income. 1957, c. 17, s. 25 (2).

Interpre-
tation

(3) For the purpose of this section, a "loss from farming" is a loss from farming computed by applying the provisions of this Part respecting the computation of income from a business *mutatis mutandis*. 1959, c. 20, s. 6 (2).

(4) The income of a corporation from a business, property ^{Income from a source} or other source of income or from sources in a particular place means the income of the corporation computed in accordance with this Part on the assumption that it had during the fiscal year no income except from that source or those sources of income and was entitled to no deductions except those related to that source or those sources. 1958, c. 16, s. 10 (2).

25.—(1) For the purpose of computing the income of a cor- ^{Inventories}poration from a business or a property, the property described in each inventory of the business shall be valued at its cost to the corporation or its fair market value, whichever is lower, unless,

(a) all of the property described in all of the inventories of the business is valued at the cost thereof to the corporation; or

(b) all of the property described in all of the inventories of the business is valued at the fair market value thereof. 1957, c. 17, s. 26 (2).

(2) Notwithstanding subsection 1, for the purpose of com- ^{Idem}puting income for a fiscal year, the property described in an inventory at the commencement of the year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding fiscal year in computing the income of the corporation for that preceding fiscal year. 1960, c. 14, s. 6 (2).

(3) For the purpose of this section and section 87, an inventory shall show quantities and nature of the properties ^{Manner of keeping inventory} that should be included therein in such manner and in sufficient detail that the property may be valued in accordance with this section. 1957, c. 17, s. 26 (3).

26.—(1) A payment or transfer of money, rights or things ^{Indirect payments} made pursuant to the direction of or with the concurrence of a corporation to some person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on such person shall be included in computing the income of the corporation to the extent that it would be if the payment or transfer had been made to the corporation.

(2) For the purposes of this Part, a payment or transfer in a fiscal year of money, rights or things made to the cor- ^{Undistrib-uted payments or profits}poration or to some person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a fiscal year shall be deemed to

have been received by the corporation in the fiscal year to the extent of its interest therein notwithstanding that there was no distribution or division thereof in that fiscal year. 1957, c. 17, s. 27.

Inadequate
considera-
tions

27.—(1) Where a corporation carrying on business in Canada has purchased anything from a person with whom it was not dealing at arm's length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the corporation from the business, be deemed to have been paid or to be payable therefor.

Idem

(2) Where a corporation carrying on business in Canada has sold anything to a person with whom it was not dealing at arm's length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the corporation from the business, be deemed to have been received or to be receivable therefor.

Idem

(3) Where a corporation carrying on business in Canada has paid or agreed to pay to a non-resident person with whom it was not dealing at arm's length as price, rental, royalty or other payment, for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount, hereinafter in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the income of the corporation from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

(4) Where a non-resident person has paid or agreed to pay to a corporation carrying on business in Canada with which he was not dealing at arm's length as price, rental, royalty or other payment for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount, hereinafter in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the income of the corporation from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

(5) Where property of a corporation has been appropriated in any manner whatsoever to or for the benefit of a shareholder

for no consideration or for a consideration below the fair market value and if the sale thereof at the fair market value would have increased the income of the corporation for the fiscal year, then for the purpose of determining the income of the corporation for the fiscal year it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof.

(6) Where property of a corporation has been appropriated ^{Idem} in any manner whatsoever to or for the benefit of a shareholder on the winding up of the corporation and if the sale thereof at the fair market value immediately before the winding up would have increased the income of the corporation for the fiscal year, then for the purpose of determining the income of the corporation for the fiscal year it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. 1957, c. 17, s. 28 (1-6).

(7) Where a corporation has disposed of depreciable ^{Idem} property as defined for the purpose of section 31 under such circumstances that subsection 3 of section 31 is applicable to determine, for the purpose of clause *a* of subsection 2 of section 22, the capital cost of the property to the person by whom the property was acquired, subsections 2, 5 and 6 of this section are not applicable in respect to the disposition. 1957, c. 17, s. 28 (7); 1958, c. 16, s. 11.

28.—(1) A lease-option agreement, a hire-purchase agreement or other contract or arrangement for the leasing or hiring of property, except immovable property used in carrying on the business of farming, by which it is agreed that the property may, on the satisfaction of a condition, vest in the lessee or other person to whom the property is leased or hired, hereinafter in this section referred to as the “lessee”, or in a person with whom the lessee does not deal at arm’s length shall, for the purpose of computing the income of the lessee, be deemed to be an agreement for the sale of the property to such lessee and rent or other consideration paid or given thereunder shall be deemed to be on account of the price of the property and not for its use, and the lessee shall, for the purpose of a deduction under clause *a* of subsection 2 of section 22 and for the purpose of section 31, be deemed to have acquired the property, ^{Lease-option, hire-purchase, etc.}

(a) in any case where, at the time the contract or arrangement was entered into, the lessee and the person in whom the property was vested at that time, hereinafter referred to as the “lessor”, were

persons not dealing at arm's length, at a capital cost equal to the capital cost thereof to the lessor; and

- (b) in any other case, at a capital cost equal to the price fixed by the contract or arrangement minus the aggregate of all amounts paid by the lessee,
 - (i) in the case of a contract or arrangement relating to movable property, before the commencement of the fiscal year ending in 1949, and
 - (ii) in the case of any other contract or arrangement, before the commencement of the fiscal year ending in 1950,

under the contract or arrangement on account of the rent or other consideration.

Rules
applicable
where
depreciable
property
deemed to
have been
acquired

(2) Where a lessee is deemed by subsection 1 to have acquired property under a contract or arrangement and that property includes property, hereinafter referred to as "depreciable property", in respect of which the lessee has been allowed, or is entitled to, a deduction under clause *a* of subsection 2 of section 22 in computing his income for a fiscal year, the following applies:

1. The capital cost at which, for the purpose of a deduction under clause *a* of subsection 2 of section 22 and for the purpose of section 31, the lessee shall be deemed to have acquired the depreciable property is,
 - (a) in any case where clause *a* of subsection 1 is applicable, the capital cost of the depreciable property to the lessor; and
 - (b) in any other case, the capital cost at which the lessee is deemed by subsection 1 to have acquired the property minus the fair market value, at the time the contract or arrangement was entered into, of the part of the property that is not depreciable property.
2. Where the contract or arrangement is subsequently rescinded or determined without the property having vested in the lessee or in a person with whom he was not dealing at arm's length, the lessee shall, for the purpose of a deduction under clause *a* of subsection 2 of section 22 and for the purpose of section 31, be

deemed to have disposed of the depreciable property for an amount equal to,

- (a) the capital cost at which he is deemed by paragraph 1 to have acquired the depreciable property,

minus,

- (b) the aggregate of all amounts paid by him under the contract or arrangement on account of the rent or other consideration,

and, in any case where the aggregate of the amount so paid by him exceeds the capital cost at which he is so deemed to have acquired the depreciable property, the amount of the excess shall, for the purpose of computing his income for the fiscal year in which the contract or arrangement was so rescinded or determined, be deemed to have been paid by him in that fiscal year under the contract or arrangement for the use of the property and not on account of its price.

3. Where there is more than one time at which the condition referred to in subsection 1 may be satisfied and the property has, upon the satisfaction of the condition otherwise than at the latest of those times, vested in the lessee, he shall, for the purpose of section 31, be deemed to have received at the time the property vested in him an amount as proceeds of disposition of the depreciable property equal to,

- (a) the capital cost at which he is deemed by paragraph 1 to have acquired the depreciable property,

minus,

- (b) the aggregate of all amounts paid by him under the contract or arrangement on account of the rent or other consideration, minus the fair market value, at the time the contract or arrangement was entered into, of the part of the property that is not depreciable property,

and, in the case where the amount determined under clause *b* exceeds the capital cost at which he is so

deemed to have acquired the depreciable property, the capital cost at which, for the purpose of a deduction under clause *a* of subsection 2 of section 22 and for the purpose of section 31, he shall be deemed to have acquired the depreciable property is the capital cost at which he is deemed by paragraph 1 to have acquired that property plus the amount of the excess.

4. Where it was agreed by the contract or arrangement that the property might, upon the satisfaction of the condition referred to in subsection 1, vest in a person with whom the lessee was not dealing at arm's length and the property has, upon the satisfaction of the condition at a subsequent time, vested in that person, hereinafter referred to as the "new owner", for the purpose of a deduction under clause *a* of subsection 2 of section 22 and for the purpose of section 31,

- (a) the lessee shall be deemed to have disposed of the depreciable property at that subsequent time for an amount equal to its undepreciated capital cost to him at that time;
- (b) the capital cost of the depreciable property to the new owner shall be deemed to be an amount equal to the capital cost at which the lessee is deemed by paragraph 1 to have acquired that property; and
- (c) an amount equal to the capital cost of the depreciable property to the new owner as determined under clause *b* minus the amount for which the lessee is deemed by clause *a* to have disposed of the depreciable property shall be deemed to have been allowed to the new owner, in respect of property of the prescribed class to which the depreciable property belongs, under regulations made under clause *a* of subsection 2 of section 22 in computing income for fiscal years before the acquisition of the depreciable property by the new owner.

interpre-
tation

- (3) In this section,

- (a) a reference to "the price fixed by the contract or arrangement" shall, where there is more than one time at which the condition referred to therein may

be satisfied, be construed as a reference to the price so fixed as though there were only one time at which the condition may be satisfied and that time were the latest of those times; and

- (b) "rent or other consideration" in relation to any contract or arrangement for the leasing or hiring of property, does not include any amount paid as or on account of property taxes or repairs in respect of the property.

(4) This section does not apply in the case of any lease-^{Application of section} option agreement, hire-purchase agreement or other contract or arrangement for the leasing or hiring of property entered into after 1957, where the amount fixed by the contract or arrangement as the price at which the property may be purchased on the satisfaction of the condition referred to in subsection 1 is, in the event of the satisfaction of the condition within a period of,

- (a) not more than five years after the contract or arrangement was entered into, an amount not less than 100 per cent;
- (b) more than five years but not more than ten years thereafter, an amount not less than 75 per cent; and
- (c) more than ten years thereafter, an amount not less than 60 per cent,

of the fair market value of the property at the time the contract or arrangement was entered into. 1959, c. 20, s. 7.

29.—(1) Where a corporation resident in Canada has loaned money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the income of the lending corporation, interest thereon, computed at 5 per cent per annum for the fiscal year or part of the fiscal year during which the loan was outstanding, shall, for the purpose of computing the income of the lending corporation, be deemed to have been received by the lending corporation on the last day of each fiscal year during all or part of which the loan has been outstanding. ^{Loans to non-resident persons}

(2) Subsection 1 does not apply if the loan was made ^{Exception} to a subsidiary controlled corporation and it is established that the money that was loaned was used in the business of the subsidiary corporation for the purpose of gaining or producing income. 1957, c. 17, s. 30.

Interest on
bonds

30. Where, by virtue of an assignment or other transfer of a bond, debenture or similar security, other than an income bond or income debenture, the transferee has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period,

- (a) shall be included in computing the income of the transferor for the fiscal year in which the transfer was made; and
- (b) may be deducted in computing the income of the transferee for a fiscal year in the computation of which there has been included,
 - (i) the full amount of the interest under section 17, or
 - (ii) a portion of the interest under clause *a*. 1957, c. 17, s. 31.

Excess of
proceeds
over
unde-
preciated
capital costs

31.—(1) Where depreciable property of a corporation of a prescribed class has, in a fiscal year, been disposed of and the proceeds of the disposition exceed the undepreciated capital cost to the corporation of depreciable property of that class immediately before the disposition, the lesser of,

- (a) the amount of the excess; or
- (b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the corporation,

shall be included in computing the income of the corporation for the fiscal year. 1957, c. 17, s. 32 (1).

Determina-
tion of net
amount

(2) Where one or more amounts are by subsection 1 required to be included in computing the income of a corporation for a fiscal year in respect of the disposition of depreciable property of a prescribed class and the corporation has, during the fiscal year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection 1 and clause *e* of subsection 4, the following applies:

1. If the aggregate of the amounts that would according to the terms of subsection 1 be included thereunder in computing the income of the corporation is

equal to or exceeds the amount that would according to the terms of clause *e* of subsection 4 be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 22 for that fiscal year,

- (i) the amount to be included in computing the income of the corporation for the fiscal year under subsection 1 in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year is nothing.
2. If the aggregate of the amounts that would according to the terms of subsection 1 be included thereunder in computing the income of the corporation is less than the amount that would according to the terms of clause *e* of subsection 4 be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 22 for that fiscal year,
- (i) no amounts shall be included in computing the income of the corporation for the fiscal year in respect of depreciable property of that class under subsection 1, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 22 for the fiscal year is the amount that it would be according to the terms of clause *e* of subsection 4 minus that aggregate. 1957, c. 17, s. 32 (2); 1958, c. 16, s. 13 (1).

(3) Where depreciable property did, at any time after the commencement of a fiscal year ending in 1949, belong to a person, hereinafter in this subsection referred to as the "original owner", and has by one or more transactions between persons not dealing at arm's length become vested in a corporation, the following, notwithstanding section 27, applies

for the purposes of this section and the regulations made pursuant to clause *a* of subsection 2 of section 22:

1. The capital cost of the property to the corporation shall be deemed to be the amount that was the capital cost of the property to the original owner.
2. Where the capital cost of the property to the original owner exceeds the actual capital cost of the property to the corporation, the excess shall be deemed to have been allowed to the corporation in respect of the property under the regulations made pursuant to clause *a* of subsection 2 of section 22 in computing income for fiscal years before the acquisition thereof by the corporation. 1957, c. 17, s. 32 (3); 1958, c. 16, s. 13 (2).

Interpre-
tation

(4) In this section and in the regulations made pursuant to clause *a* of subsection 2 of section 22,

- (a) “depreciable property” of a corporation as of any time in a fiscal year means property in respect of which the corporation has been allowed or is entitled to a deduction under the regulations made pursuant to clause *a* of subsection 2 of section 22 in computing income for that or a previous fiscal year;
- (b) “disposition of property” includes any transaction or event entitling a corporation to proceeds of disposition of property;
- (c) “proceeds of disposition” of property includes,
 - (i) the sale price of property that has been sold,
 - (ii) compensation for property damaged, destroyed, taken or injuriously affected, either lawfully or unlawfully, or under statutory authority or otherwise,
 - (iii) an amount payable under a policy of insurance in respect of loss or destruction of property, and
 - (iv) an amount payable under a policy of insurance in respect of damage to property except to the extent that the amount has within a reasonable time after the damage been expended on repairing the damage;

(d) "total depreciation" allowed to a corporation before any time for property of a prescribed class means the aggregate of all amounts allowed to the corporation in respect of property of that class under the regulations made pursuant to clause *a* of subsection 2 of section 22 in computing income for the fiscal years before that time;

(e) "undepreciated capital cost" to a corporation of depreciable property of a prescribed class as of any time means the capital cost to the corporation of depreciable property of that class acquired before that time minus the aggregate of,

(i) the total depreciation allowed to the corporation for property of that class before that time,

(ii) for each disposition before that time of property of the corporation of that class, the least of,

(A) the proceeds of disposition thereof,

(B) the capital cost to the corporation thereof, or

(C) the undepreciated capital cost to the corporation of property of that class immediately before the disposition,

and

(iii) each amount by which the undepreciated capital cost to the corporation of depreciable property of that class as of the end of a previous fiscal year was reduced by virtue of subsection 2. 1957, c. 17, s. 32 (4); 1958, c. 16, s. 13 (3); 1960, c. 14, s. 7.

(5) Where an amount payable under a policy of insurance in respect of loss or destruction of property of a prescribed class would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter in this subsection referred to as "the initial fiscal year", by virtue of this section,

Insurance
proceeds

(a) it shall, to the extent that it has been expended by the corporation in the fiscal year immediately following the initial fiscal year on acquiring,

(i) property of the same class, or

- (ii) if the property destroyed was a building, a building of a prescribed class,

not be included in computing the income of the corporation for the initial fiscal year; and

- (b) it shall, to the extent that it has not been included in computing the income of the corporation for the initial fiscal year, be deemed to be proceeds of a disposition made in the fiscal year immediately following the initial fiscal year of depreciable property of the corporation of the same class as the property so acquired. 1957, c. 17, s. 32 (5).

Deprecia-
tion

(6) For the purpose of this section and the regulations made pursuant to clause *a* of subsection 2 of section 22, the following applies:

1. Where a corporation, having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the corporation shall be deemed to have disposed of it at that later time at its fair market value at that time.
2. Where a corporation, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, the corporation shall be deemed to have acquired it at that later time at its fair market value at that time.
3. Where a corporation has acquired property by gift, bequest or inheritance, the capital cost to the corporation shall be deemed to have been the fair market value thereof at the time the corporation so acquired it.
4. Where a corporation has given property away, the corporation shall be deemed to have disposed of it at the time of the gift at its fair market value at that time.
5. Where a property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income

from a business and in part for some other purpose, the corporation shall be deemed to have acquired for the purpose of gaining or producing income the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the corporation equal to the same proportion of the capital cost to the corporation of the whole property, and, if the property has in such a case been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property.

6. Where at any time after a corporation has acquired property there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income and the use regularly made of the property for other purposes,
 - (i) if the use regularly made by the corporation of the property for the purpose of gaining or producing income has increased, the corporation shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property, and
 - (ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the corporation shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property.
7. Where an amount can reasonably be regarded as being in part the consideration for disposition of depreciable property of a corporation of a prescribed

class and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be the proceeds of disposition of depreciable property of that class irrespective of the form or legal effect of the contract or agreement, and the person to whom the depreciable property was disposed of shall be deemed to have acquired the property at a capital cost to him equal to the same part of that amount.

8. Where a corporation has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, the capital cost of the property shall be deemed to be the capital cost thereof to the corporation minus the amount of the grant, subsidy or other assistance. 1957, c. 17, s. 32 (6); 1958, c. 16, s. 13 (4).

Interpre-
tation

- (7) In paragraphs 1, 2, 5 and 6 of subsection 6, in the case of a non-resident corporation, "business" means a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada. 1957, c. 17, s. 32 (7).

Farming
and fishing

- (8) Subsection 1 does not apply in determining the income of a corporation of a fiscal year from farming or fishing unless the corporation has elected to take a deduction for that or a previous fiscal year under the regulations made pursuant to clause *a* of subsection 2 of section 22 other than a regulation providing solely for an allowance for computing income from farming or fishing. 1957, c. 17, s. 32 (8); 1958, c. 16, s. 13 (5).

Deduction
in respect
of capital
cost of
vessels

32.—(1) Notwithstanding section 31, where a corporation owns a vessel,

- (a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Treasurer in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on December 10, 1931) applies; and
- (b) the construction of which was commenced after the 1st day of January, 1949; and
- (c) in respect of the capital cost of which no allowance has been made to any other taxpayer under the

Canadian Vessel Construction Assistance Act (Canada) R.S.C. 1952,
cc. 43, 148
or the *Income Tax Act* (Canada),

the corporation shall, so long as the title to the vessel remains vested in the corporation, in lieu of a deduction under clause *a* of subsection 2 of section 22 and the regulations made pursuant to that clause, deduct such part of the capital cost of the vessel to the corporation as the corporation elected to take and was allowed under the *Canadian Vessel Construction Assistance Act* (Canada).

(2) Notwithstanding section 31, where a corporation owns Deduction
in respect of
conversion
cost of
vessels
a vessel,

- (a) that is registered in Canada or is registered under conditions satisfactory to the Treasurer in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on December 10, 1931) applies; and
- (b) the conversion or major alteration of which was commenced after the 1st day of January, 1949,

the corporation shall, so long as the title to the vessel remains vested in the corporation, in lieu of the deduction allowed under clause *a* of subsection 2 of section 22 and the regulations made pursuant to that clause in respect of the conversion cost but in addition to deductions allowed under that clause in respect of the capital cost of the vessel other than the conversion cost, deduct such part of the conversion cost to the corporation as the corporation elected to take and was allowed under the *Canadian Vessel Construction Assistance Act* (Canada).

(3) For the purposes of this section and section 33, Interpre-
tation

- (a) "capital cost" means capital cost as determined by the Treasurer;
- (b) "conversion cost" means the cost of a conversion or major alteration as determined by the Treasurer;
- (c) "conversion or major alteration" means a conversion or major alteration made in Canada in accordance with plans approved by the Treasurer pursuant to the written approval of the Canadian Maritime Commission for the purposes of the *Canadian Vessel Construction Assistance Act* (Canada); and
- (d) "vessel" means a vessel as defined in the *Canada* R.S.C. 1952,
c. 29
Shipping Act (Canada).

Exception
R.S.C. 1952,
c. 43

(4) Where under section 6 of the *Canadian Vessel Construction Assistance Act* (Canada) a class of vessel is excluded from the operation of that Act, the Treasurer shall exclude the same class of vessel from the operation of this section and section 33. 1959, c. 20, s. 8.

Application
of sec. 31

(5) For the purposes of this Act,

- (a) a vessel in respect of which an allowance has been made under subsection 1 shall be deemed to be a prescribed class within the meaning of section 31;
- (b) a vessel in respect of which an allowance has been made under subsection 2 shall to the extent of the conversion cost be deemed to be a prescribed class within the meaning of section 31; and
- (c) an allowance under this section shall be deemed to have been made under clause *a* of subsection 2 of section 22. 1957, c. 17, s. 33 (3); 1958, c. 16, s. 14 (3).

Application
of sec. 31
in certain
circum-
stances

33.—(1) Where a corporation disposes of a vessel, in this section called the “sold vessel”, and the proceeds of disposition are used by a person under conditions satisfactory to the Treasurer,

- (a) to acquire a vessel, in this section called the “new vessel”, to which the description in subsection 1 of section 32 applies; or
- (b) to defray the conversion cost in respect of a vessel to which the description in subsection 2 of section 32 applies,

the amount to be included in computing the income of the corporation under subsection 1 of section 31 for the fiscal year in which the sold vessel was disposed of shall be that proportion of the amount that would, but for this subsection, be included therein which the amount by which the proceeds of disposition of the sold vessel exceeds,

- (c) the capital cost of the new vessel to such person incurred during the same fiscal year; or
- (d) the conversion cost to such person incurred during the same fiscal year,

or the total of both, as the case may be, bears to the proceeds of disposition of the sold vessel.

(2) Where a part of the proceeds of disposition of a sold vessel that is not used during the same fiscal year during which such disposition took place in the manner provided by subsection 1 is so used during any subsequent fiscal year of the corporation up to and including the seventh, the taxable income of the corporation for the fiscal year during which the sold vessel was disposed of shall be reduced to equal the amount that it would have equalled had the total of all parts of the proceeds of such disposition that were so used up to that time been so used during the fiscal year of the corporation when the sold vessel was disposed of. 1959, c. 20, s. 9.

Disposition
of proceeds
from sale
of vessel

(3) Where a vessel in respect of which an allowance has been made under subsection 2 of section 32 is disposed of, the portion of the proceeds of disposition that is attributable to the conversion cost shall be determined by the Treasurer.

Determina-
tion of
conversion
costs

(4) Notwithstanding clause *e* of subsection 1 of section 23, a corporation may in computing its income for a fiscal year deduct such amount as is allowed by the regulations as a reserve for expenses to be incurred by reason of quadrennial or other special surveys required by the *Canada Shipping Act* (Canada), or the regulations made thereunder, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport of Canada for the purposes of that Act.

Reserve for
expenses of
quadrennial
surveys, etc.

R.S.C. 1952,
c. 29

(5) In any case where,

Recapture
where survey
completed

- (a) a corporation made a deduction under subsection 4 in respect of a vessel as a reserve for expenses to be incurred by reason of a quadrennial or other special survey of that vessel; and
- (b) the quadrennial or other special survey in respect of which the deduction was made has been completed to the extent that the vessel is permitted to proceed on a voyage,

the aggregate amount of the deductions in respect of the vessel that have not previously been included in computing the income of the corporation under this Part shall be included in computing its income under this Part for the fiscal year in which the survey was so completed.

(6) In any case where,

Recapture
where survey
not begun or
completed

- (a) a corporation has made a deduction under subsection 4 in respect of a vessel as a reserve for

expenses to be incurred by reason of a quadrennial or other special survey of that vessel; and

- (b) before that quadrennial or other special survey was completed, the corporation sold the vessel or the vessel was lost or destroyed or any other circumstance arose that in the opinion of the Treasurer renders it improbable that the survey will be completed,

the aggregate amount of the deductions in respect of the vessel that have not previously been included in computing the income of the corporation under this Part shall be included in computing its income under this Part for the fiscal year in which the vessel was sold, lost or destroyed or in which such circumstance arose. 1957, c. 17, s. 34 (2-5).

Certain
vessels
classified
for special
capital cost
allowances

R.S.C. 1952,
c. 43

34. Where a corporation disposes of a vessel that is other than one described by clauses *a*, *b* and *c* of subsection 1 of section 32 or that is one to which conversion or major alteration has been made in accordance with subsection 2 of section 32 and, where the corporation elects under section 4 of the *Canadian Vessel Construction Assistance Act* (Canada) to have such a vessel, or such part of a vessel as equals the excess of the capital cost thereof over the conversion cost, as the case may be, constituted a prescribed class, such vessel or such part, as the case may be, shall be deemed for the purposes of clause *a* of subsection 2 of section 22 and section 31 to be a prescribed class and the undepreciated capital cost of such vessel or such part, as the case may be, shall be an amount determined in accordance with the *Canadian Vessel Construction Assistance Act* (Canada). 1959, c. 20, s. 10.

Transfer of
rights to
income

35. Where a corporation has at any time before the end of a fiscal year, whether before or after the commencement of this Act, transferred or assigned to a person with whom the corporation was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the income of the corporation for the fiscal year because the amount would have been received or receivable by the corporation in or in respect of the fiscal year, the amount shall be included in computing the income of the corporation for the fiscal year unless the income is from property and the corporation has also transferred or assigned the property. 1957, c. 17, s. 35.

Securities in
satisfaction
of income
debt

36.—(1) Where a corporation has received security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as or in lieu of payment of

or in satisfaction of an interest, dividend or other debt that was then payable and the amount of which would be included in computing the income of the corporation if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing the income of the corporation for the fiscal year in which it was received, and a payment in redemption of a security, satisfaction of the right or discharge of the indebtedness shall not be included in computing the income of the recipient.

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as or in lieu of payment of or in satisfaction of a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall for the purpose of subsection 1 be deemed to have been received when the debt became payable by the person holding it at the time. Idem

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income. 1957, c. 17, s. 36. Idem

37.—(1) Where an amount is included in computing the income of a corporation for a fiscal year by virtue of section 31 and where the corporation has elected to pay tax thereon in accordance with section 43 of the *Income Tax Act* (Canada), the corporation shall exclude the amount that would otherwise be taxable so that, Election respecting recapture of excess capital allowance R.S.C. 1952, c. 148

(a) no amount shall be included in computing its income for the fiscal year by virtue of section 31; and

(b) the taxable income thereof for each of the preceding fiscal years in the period determined under subsection 2 shall be increased by the portions of the amount that would otherwise be included by virtue of section 31 determined under subsection 2.

(2) Where the period during which the corporation was not exempt from tax under section 4 and immediately before the fiscal year for which an amount would otherwise be included in computing its income by virtue of section 31 is only one fiscal year or less, subsection 1 does not apply, and, where that period,

(a) is more than one fiscal year and not more than two fiscal years, the portion referred to in clause b of

subsection 1 is one-half and the period referred to therein is the two immediately preceding fiscal years;

- (b) is more than two fiscal years and not more than three fiscal years, the portion referred to in clause *b* of subsection 1 is one-third and the period referred to therein is the three immediately preceding fiscal years;
- (c) is more than three fiscal years and not more than four fiscal years, the portion referred to in clause *b* of subsection 1 is one-quarter and the period referred to therein is the four immediately preceding fiscal years; and
- (d) is more than four fiscal years, the portion referred to in clause *b* of subsection 1 is one-fifth and the period referred to therein is the five immediately preceding fiscal years. 1959, c. 20, s. 11.

Election
respecting
incorrect
valuation
of inventory

38. Where the property described in the inventory of a business at the commencement of a fiscal year has, according to the method adopted by the corporation for computing income from the business for that fiscal year, not been valued as required by section 25, the property described therein at the commencement of that fiscal year shall, if the Treasurer so directs, be deemed to have been valued as required by section 25, and, in any such case, section 37 applies *mutatis mutandis* as though any amount by which the income of the corporation for the fiscal year is increased by virtue of this section were an amount included in computing its income for the year by virtue of section 31. 1959, c. 20, s. 12.

DIVISION C—COMPUTATION OF TAXABLE INCOME

Computation
of taxable
income

39.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from the income for the fiscal year such of the following amounts as apply:

charitable
donations

1. The aggregate of gifts made by the corporation in the fiscal year, or in the immediately preceding fiscal year to the extent of the amount thereof that was not deductible under this Part in computing the taxable income of the corporation for that immediately preceding fiscal year, to organizations in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraphs *e*, *f*, *g* and *ga* of

R.S.C. 1952,
c. 148

subsection 1 of section 62 thereof and to Her Majesty in right of any province of Canada other than Ontario and any Canadian municipality, not exceeding 10 per cent of the income of the corporation for the fiscal year, if payment of the amounts given is proven by the filing of receipts or photostatic reproductions thereof with the Treasurer.

2. The aggregate of gifts made by the corporation in the fiscal year to Her Majesty in right of Canada and of Ontario, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Treasurer. ^{gifts to Her Majesty}
3. Business losses sustained in the five fiscal years immediately preceding and the fiscal year immediately following the taxation year, but, ^{business losses}
 - (i) an amount in respect of a loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this Act,
 - (ii) no amount is deductible in respect of the loss of any fiscal year until the deductible losses of previous fiscal years have been deducted, and
 - (iii) no amount is deductible in respect of losses from the income of any fiscal year except to the extent of the lesser of,
 - (A) the income of the corporation for the fiscal year from the business in which the loss was sustained and its income for the fiscal year from any other business, or
 - (B) the income of the corporation for the fiscal year minus all deductions permitted by the provisions of this Division other than this clause. 1957, c. 17, s. 37; 1959, c. 20, s. 13 (1, 2).

(2) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, a business loss sustained by it in a preceding fiscal year, in any case where, ^{Application of subs. 1, par. 3}

- (a) more than 50 per cent of the shares in the capital stock of the corporation have, between the end of

that preceding fiscal year and the end of the taxation year, been acquired by a person or persons who did not, at the end of that preceding fiscal year, own any of the shares in the capital stock of the corporation; and

- (b) the corporation was not, during the taxation year, carrying on the business in which the loss was sustained.

Idem

(3) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, such part of a loss from farming sustained by it in another fiscal year as was not by virtue of section 24 deductible in computing its income, if any, for the taxation year from farming. 1959, c. 20, s. 13 (3).

Idem

(4) Paragraph 3 of subsection 1 applies to require a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, the same part of the loss sustained by it in another fiscal year as is deducted by it under clause *e* of subsection 1 of section 27 of the *Income Tax Act* (Canada) in computing its taxable income under that Act for the same fiscal year. 1960, c. 14, s. 8.

R.S.C. 1952,
c. 148

Dividends
received by
a corporation

40.—(1) Where a corporation in a fiscal year received a dividend or is deemed by section 54 to have received a dividend from a corporation that,

- (a) was resident in Canada in the fiscal year and was not by virtue of a statutory provision exempt from tax under Part I of the *Income Tax Act* (Canada) for the fiscal year;
- (b) was a corporation non-resident of Canada more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belong to the corporation receiving the dividend;
- (c) was a foreign business corporation more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belong to the corporation receiving the dividend; or
- (d) had never paid a tax under Part I of the *Income Tax Act* (Canada) by virtue of subsections 5 and 6 of section 83 thereof,

an amount equal to the dividend minus any amount deducted under subsection 3 of section 22 in computing the income of

the corporation receiving the dividend may be deducted from the income of that corporation for the fiscal year for the purpose of determining its taxable income. 1957, c. 17, s. 38; 1958, c. 16, s. 16.

(2) Where a corporation has, in computing its taxable income for a fiscal year, deducted an amount under this section in respect of a dividend, no loss arising from transactions with reference to the share in respect of which the dividend was received shall be allowed to reduce the income of the corporation for that or a subsequent fiscal year unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of any class of the issued share capital of the corporation from which the dividend was received. 1959, c. 20, s. 14.

41. Notwithstanding anything in this Part, the taxable income of a life insurance corporation for a fiscal year is the aggregate of the amounts credited to shareholders' account or otherwise appropriated for or on account of shareholders during the fiscal year minus the aggregate of,

- (a) amounts charged in the fiscal year to the shareholders as their fair proportion of losses incurred upon investments or other losses of a similar character;
- (b) amounts transferred in the fiscal year from the shareholders' account to an insurance fund or an investment reserve fund;
- (c) in a case where an amount equal to dividends or portions of dividends would be deductible under subsection 1 of section 40, if that subsection were applicable, such proportion of the amount credited or appropriated as aforesaid as may reasonably be regarded as having been derived from those dividends or portions of dividends; and
- (d) gifts made out of the shareholders' account by the corporation in the fiscal year to organizations in Canada operated exclusively for charitable purposes not exceeding in the aggregate for the fiscal year

10 per cent of the amount so credited or appropriated minus the amounts described by clauses *a* and *b*. 1957, c. 17, s. 39; 1960, c. 14, s. 9.

DIVISION D—EXCEPTIONAL CASES AND SPECIAL RULES

Personal Corporations

Personal
corporations
exempt

42.—(1) No tax is payable under section 4 or 5 by a corporation for a fiscal year during which it was a personal corporation.

Interpre-
tation

(2) In this Act, “personal corporation” means a corporation that, during the whole of the fiscal year in respect of which the expression is being applied,

(*a*) was controlled, whether through holding of the majority of the shares of the corporation or in any other manner whatsoever, by an individual resident in Ontario, by such individual and one or more members of his family who were resident in Ontario or by any other person on his or their behalf;

(*b*) derived at least one-quarter of its income from,

(i) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or interest therein,

(ii) lending money with or without securities,

(iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or

(iv) estates or trusts; and

(*c*) did not carry on an active financial, commercial or industrial business.

Idem

(3) For the purpose of clause *a* of subsection 2, the members of the family of an individual are his spouse, sons and daughters, whether or not they live together.

Distribution
of income

(4) The income of a personal corporation whether actually distributed or not shall be deemed to have been distributed to and received by the shareholders as a dividend on the last day of each fiscal year of the corporation.

(5) The part of the income of a personal corporation that shall be deemed under this section to have been distributed to and received by a shareholder of the corporation shall be the proportion thereof that the value of all property transferred or loaned to the corporation by the shareholder or any person by whom his share was previously owned is of the value of the property so acquired by the corporation from all its shareholders. ^{Division of income}

(6) The value of property transferred or loaned to a personal corporation shall be deemed for the purpose of this section to be its value at the time the property was transferred or loaned to the corporation. ^{Valuation}

(7) For the purpose of this section, where the property of a personal corporation is transferred to or otherwise acquired by another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second corporation the property that they or persons who previously owned their share transferred to the first corporation. ^{Transfers}

(8) Where a dividend has in a fiscal year actually been paid by a corporation that was at the time of payment and always had been a personal corporation, the portion thereof to which a shareholder is entitled and which is received by the shareholder shall not be included in computing the income of that shareholder for the fiscal year in which it was received. ^{Dividends declared}

(9) Where a dividend has in a fiscal year been paid by a personal corporation that was in some previous fiscal year not a personal corporation, the following applies: ^{Idem}

1. The dividend shall not be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received if the dividend does not exceed the remainder obtained when,
 - (i) the aggregate of dividends paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of the shareholders by whom they were received,

is subtracted from,

- (ii) the aggregate of the amounts deemed under this section to have been distributed while it was a personal corporation.

2. In a case where the dividend does not exceed the remainder referred to in paragraph 1, the dividends shall only be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received to the extent that the excess does not exceed the undistributed income on hand earned by the corporation since the 1st day of January, 1917, in fiscal years when the corporation was not a personal corporation.
3. Where the amount to be included in computing the incomes of shareholders by virtue of paragraph 2 is less than the dividend, the portion thereof that shall be so included in computing the income of a particular shareholder for the fiscal year is the portion thereof that his portion of the dividend is of the whole dividend.

Idem

(10) Where a dividend has in a fiscal year been paid by a corporation when it was not a personal corporation but had previously been one, it shall be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received only to the extent that the dividend exceeds the remainder obtained when,

- (a) the aggregate of dividends paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of shareholders by whom they were received,

is subtracted from,

- (b) the aggregate of the amounts deemed under this section to have been distributed by it to its shareholders while it was a personal corporation,

and, where the excess is less than the dividend so paid, the amount that shall be so included in computing the income of a particular shareholder for the fiscal year is the proportion of the excess that the portion of the dividend belonging to that particular shareholder is of the whole dividend.

Dividends
deemed paid
or received

(11) Where a dividend is deemed by any provision other than this section to have been paid or received, it shall for the purpose of this section be regarded as having been paid.

Where chief
source of
income of
personal
corporation
not farming

(12) Where it has been determined for the purpose of subsection 1 of section 24 that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, its farming

business shall be deemed for the purpose of clause c of subsection 2 not to have been during the fiscal year an active financial, commercial or industrial business. 1957, c. 17, s. 40.

Mutual Insurance Corporations

43. It is hereby declared that an insurance corporation ^{Mutual insurance corporations} other than a life insurance corporation, whether or not it is a mutual corporation, that has in a fiscal year entered into insurance contracts or other arrangements or relationships whereby it can reasonably be regarded as undertaking to insure other persons, whether or not such persons are members or shareholders of the corporation, against loss, damage or expense of any kind, shall, regardless of the form or legal effect of those contracts, arrangements or relationships, be deemed for the purpose of section 4 to have been carrying on an insurance business in the fiscal year for profit and, in any such case, for the purpose of computing the income from the business so deemed to have been carried on, the following applies:

1. Every amount received under, in consideration of, in respect of or on account of such contract, arrangement or relationship shall be deemed to have been received by the corporation in the course of the business.
2. The income shall, otherwise, be computed in accordance with the rules applicable in computing the income from a business for the purpose of this Part.
3. All income from property vested in the corporation shall be deemed to be income of the corporation. 1957, c. 17, s. 41.

44. Where a corporation that is incorporated under the law of a province with authority to transact the business of life insurance has applied an amount in payment for shares of the corporation purchased by it under the authority of the law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law, ^{Conversion of provincial life insurance corporation into mutual corporation}

- (a) section 19 does not apply to require the inclusion in computing the income of a shareholder of the corporation of any part of that amount; and

- (b) no part of that amount shall be deemed, for the purposes of section 41, to have been credited to shareholders' account or otherwise appropriated for or on account of shareholders or, for the purposes of section 54, to have been received as a dividend. 1960, c. 14, s. 10.

Non-Resident-Owned Investment Corporations

Non-resident-owned investment corporations, tax exempt

Interpretation

45.—(1) No tax is payable under section 4 or 5 by a corporation for a fiscal year during which it was a non-resident-owned investment corporation. 1957, c. 17, s. 42 (1).

(2) In this Act, “non-resident-owned investment corporation” means a corporation incorporated in Canada that during the whole of the fiscal year in respect of which the expression is being applied complied with the following conditions:

1. At least 95 per cent of the aggregate value of its issued shares and all its bonds, debentures and other funded indebtedness were,
 - (i) beneficially owned by non-resident persons,
 - (ii) owned by trustees for the benefit of non-resident persons or their unborn issue, or
 - (iii) owned by a corporation, whether incorporated in Canada or elsewhere, at least 95 per cent of the aggregate value of the issued shares of which and all the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue or by several such corporations.
2. Its income was derived from,
 - (i) ownership or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,
 - (ii) lending money with or without security,
 - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or
 - (iv) estates or trusts.

3. Not more than 10 per cent of its gross revenue was derived from rents, hire of chattels or charterparty fees or remunerations.
4. Its principal business was not,
 - (i) the making of loans, or
 - (ii) trading or dealing in mortgages, hypothecs, bills, notes or other similar property or any interest therein.
5. It has, not later than ninety days after the commencement of the fiscal year, elected in the manner provided by section 70 of the *Income Tax Act* (Canada) to be taxed as provided by section 70 thereof.^{R.S.C. 1952, c. 148}
6. It has not, before the fiscal year, revoked the election under the *Income Tax Act* (Canada) to be taxed under that Act as provided by section 70 thereof. 1957, c. 17, s. 42 (2); 1958, c. 16, s. 17; 1960, c. 14, s. 11.

Foreign Business Corporations

46.—(1) No tax is payable under section 4 or 5 by a corporation for a fiscal year when it was a foreign business corporation.^{Foreign business corporations, tax exempt}

(2) In this Act, “foreign business corporation” means a corporation that during the whole of the fiscal year in respect of which the expression is being applied,^{Interpretation}

- (a) was not a personal corporation;
- (b) complied with one of the following conditions:
 - (i) its business operations were of an industrial, mining, commercial, public utility or public service nature and were carried on entirely outside Canada, except for management and the designing, purchasing and transportation of goods if the goods were not acquired for resale in the course of trading and were acquired for the operations so carried on outside Canada, either directly or through ownership of shares in or control of subsidiary or affiliated corporations and its property, except securities and bank deposits, was situate entirely outside Canada,

- (ii) it was the wholly-owned subsidiary of a corporation that complied with the conditions in subclause i and was wholly engaged in carrying on business outside Canada, or
 - (iii) its business was of an investment or financial nature and was carried on entirely outside Canada, its shares had been offered for public subscription or were listed on a recognized stock exchange in Canada or elsewhere and its property, except bank deposits and shares of other corporations that were entitled to exemption under this section, was situate entirely outside Canada; and
- (c) derived not more than 10 per cent of its gross revenue from the leasing or operation by it of a ship or aircraft,

and has,

- (d) filed a return for the fiscal year in the form and within the period of time required by section 71 and within the same time paid the tax levied by section 6; or
- (e) within 370 days from the end of the fiscal year, filed a return for the fiscal year in the form required by section 71 and paid the tax imposed by section 6 plus a penalty for late filing equal to \$10 for each day of delay after the expiration of the period of time from the end of the fiscal year within which section 71 requires the filing of a return.

Situs

(3) For the purposes of this section, shares and bonds of corporations incorporated in Canada shall be deemed to be property situate in Canada notwithstanding that they have been transferred on a register outside Canada.

Exception

(4) Where a corporation would have complied during the whole of a fiscal year with the condition contained in subclause i of clause b of subsection 2 were it not that its business operations during the fiscal year were carried on in part in Canada through ownership of shares in or control of one or more subsidiary or affiliated corporations, the corporation shall be deemed to have complied with that condition if, during the whole of the fiscal year,

- (a) the business operations so carried on in Canada were of a mining nature; and

- (b) its main business operations were of an industrial, mining, commercial, public utility or public service nature, and were, except for management and the designing, purchasing, and transportation of goods, carried on outside Canada. 1957, c. 17, s. 43.

(5) This section does not apply to exempt a corporation from tax under section 4 or 5 for a fiscal year ending after the 9th day of April, 1959, hereinafter in this subsection referred to as a "particular taxation year", unless, ^{Application of section}

- (a) in the case of a corporation that had a fiscal year ending before 1959, the corporation was during its last fiscal year ending before 1959 and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation;
- (b) in the case of a corporation incorporated on or before the 9th day of April, 1959, that did not have a fiscal year ending before 1959, the corporation was during its first fiscal year ending after 1958 and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation; or
- (c) in the case of a corporation that had a fiscal year ending on or before the 9th day of April, 1959, the corporation was during the fiscal year in which that date occurred and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation, and had during that part of its fiscal year in which that date occurred that was before the 10th day of April, 1959, business operations that complied with one of the conditions contained in clause b of subsection 2. 1960, c. 14, s. 12.

Scientific Research

47.—(1) In computing the income for a fiscal year of a corporation that had a permanent establishment in Canada and made expenditures in respect of scientific research in the fiscal year, there may be deducted, ^{Scientific research, deductions from income}

- (a) all expenditures of a current nature made in Canada in the fiscal year,
 - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation,

- (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation,
- (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation; and

(b) the lesser of,

- (i) one-third of the expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year and the two fiscal years immediately preceding that fiscal year on scientific research related to the business and directly undertaken by or on behalf of the corporation, or
- (ii) the undepreciated capital cost to the corporation of the property so acquired as of the end of the fiscal year, before making any deduction under this clause in computing the income of the corporation for the fiscal year.

Limitation

(2) Not more than 5 per cent of the taxable income of the corporation for the fiscal year preceding the taxation year may be deducted under this section unless the research program in respect of which the expenditures were made has been approved.

Idem

(3) No deduction may be made under this section in respect of an expenditure made to acquire rights in or arising out of scientific research or in respect of an amount deducted under this Part from income in respect of a gift to a charitable organization.

Interpretation

(4) In this section,

- (a) "approved" means approved by the Treasurer;
- (b) "scientific research" means any activity in the field of natural or applied science for the extension of knowledge;
- (c) references to expenditures on scientific research include all expenditures incurred for the prosecution or the provision of facilities for the prosecution of the scientific research;

- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class. 1957, c. 17, s. 44 (1-4).

(5) An amount deducted under clause *b* of subsection 1 shall for the purpose of section 31 be deemed to be an amount allowed to the corporation in respect of the property acquired by the expenditures under the regulations made pursuant to clause *a* of subsection 2 of section 22 and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class. 1957, c. 17, s. 44 (5); 1958, c. 16, s. 18.

Co-operatives

48.—(1) Except as provided in subsection 2, no tax is payable under section 4 for each of the first three fiscal years after commencement of its business by a co-operative corporation that commenced business on or after the 1st day of January, 1947. 1957, c. 17, s. 45 (1); 1958, c. 16, s. 19 (1).

(2) The exemption provided by subsection 1 does not apply to a co-operative corporation, the business of which is a continuation of a previous business in which a substantial number of its members had a substantial interest either as shareholders of a corporation carrying on the previous business or otherwise. 1958, c. 16, s. 19 (2).

(3) Where a co-operative corporation has received a grant from the government of a province that was not fixed by reference to natural products marketed, supplies, equipment or household necessities purchased or sold or services performed by it,

- (a) no amount shall be included in respect of the grant in computing the income of the corporation for any fiscal year; and
- (b) paragraph 8 of subsection 6 of section 31 is not applicable in respect of any property in respect of or for the acquisition of which the grant was received.

(4) No tax is payable under section 5 by a corporation for any fiscal year during which it is a co-operative corporation. 1957, c. 17, s. 45 (2, 3).

Interpre-
tation

(5) In this Act, "co-operative corporation" means a corporation that was incorporated under legislation of a province respecting the establishment of co-operative corporations for the purpose of marketing, including processing incident to or connected therewith, natural products belonging to or acquired from its members or customers, of purchasing supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if, during the fiscal year,

- (a) the statute under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;
 - (b) none of its members had more than one vote in the conduct of its affairs;
 - (c) at least 90 per cent of its members are individuals and at least 90 per cent of its shares, if any, are held by individuals;
 - (d) the rate of interest on capital subscribed by its members or the rate of its dividends on its shares did not exceed 5 per cent per annum; and
 - (e) the value of the product marketed for or acquired from, supplies, equipment and household necessities purchased for or sold to, and the services performed for, its customers other than members did not exceed 20 per cent of the total thereof for all its business.
- 1957, c. 17, s. 45 (4), cls. (a-e).

Non-
application
of s. 54
(2) (a)

(6) Clause *a* of subsection 2 of section 54 does not apply where the corporation that redeemed or acquired its common shares or that reduced its common stock is a co-operative corporation. 1958, c. 16, s. 19 (4).

Refund of Premiums

Deduction
in computing
income

49. In computing the income for a fiscal year of an insurance corporation other than a life insurance corporation, whether a mutual corporation or a joint stock company, there may be deducted every amount credited in respect of business for the fiscal year to a policyholder of the corporation by way of dividend, refund of premiums or refund of premium deposits, if the amount was during the fiscal year or within twelve months thereafter,

- (a) paid to the policyholder;

- (b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the corporation; or
- (c) credited to the account of the policyholder on terms that he is entitled to payments thereof on or before expiry or termination of the policy. 1957, c. 17, s. 46.

Patronage Dividends

50.—(1) Notwithstanding anything in this Part, there may be deducted in computing income for a fiscal year the aggregate of the payments made pursuant to allocations in proportion to patronage by a corporation, Patronage dividends, deduction in computing income

- (a) within the fiscal year or within twelve months thereafter to its customers of the fiscal year; and
- (b) within the fiscal year or within twelve months thereafter to its customers of a previous fiscal year, the deduction of which from income of a previous fiscal year was not permitted.

(2) Notwithstanding subsection 1, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the fiscal year at the same rate with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of, Limitation where non-member customers

- (a) the aggregate of the payments mentioned in subsection 1; or
- (b) the aggregate of,
 - (i) the part of the income of the corporation for the fiscal year attributable to business done with members, and
 - (ii) the allocation in proportion to patronage made to non-member customers of the fiscal year.

(3) Where the deduction of an amount under subsection 1 or 2 would result in the taxable income of the corporation for the fiscal year, before deduction of any amount under Limitation by reference to capital employed

subsection 1 of section 39 in respect of business losses, being less than the amount by which,

- (a) 3 per cent of the capital employed in the business at the commencement of the fiscal year,

exceeds,

- (b) the interest, if any, paid on borrowed moneys, other than moneys borrowed from a bank or from a corporation or association described in clause *j* of subsection 37 of section 4, and deductible in computing the income of the corporation for the fiscal year,

the amount that may be deducted under this section is such as will leave the corporation with a taxable income before deduction of any amount under subsection 1 of section 39 in respect of business losses, equal to the excess.

Interpre-
tation

- (4) For the purposes of this section,

- (a) "allocation in proportion to patronage" for a fiscal year means an amount credited by a corporation to a customer of that fiscal year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof,

- (i) if the amount was credited,

- (A) within the fiscal year or within twelve months thereafter, and

- (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that year who were members or to all other customers of that year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and

- (ii) if the prospect that amounts would be so credited was held forth by the corporation to its customers of that year who were members or non-member customers of that year, as the case may be;
- (b) "capital employed in the business" shall be computed in accordance with subsection 8, except that no deduction shall be made from capital in respect of borrowed moneys, other than moneys borrowed from a bank or from a corporation described in clause *j* of subsection 37 of section 4;
- (c) "customer" means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation or for whom the corporation renders services;
- (d) "consumer goods or services" means goods or services the cost of which was not deductible by the corporation in computing the income from a business or property;
- (e) "income of the corporation attributable to business done with members" of any fiscal year means that proportion of the income of the corporation for the fiscal year, before making any deduction under this section, that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the fiscal year;
- (f) "payment" includes,
 - (i) the issue of a certificate of indebtedness or shares of the corporation or of a corporation of which the corporation is a subsidiary wholly-owned corporation if the corporation or that other corporation has in the fiscal year or within twelve months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the corporation or that other corporation previously issued,

- (ii) the application by the corporation of an amount to the liability of a member to the corporation, including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment of shares issued to a member, pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member, or
- (iii) the amount of a payment or transfer by the corporation that under subsection 1 of section 26 is required to be included in computing the income of a member;
- (g) “member” means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation; and
- (h) “non-member customer” means a customer who is not a member.

Holding
forth
prospect of
allocations

(5) For the purpose of this section, the corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a fiscal year by way of allocation in proportion to patronage,

- (a) if throughout the fiscal year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or
- (b) if prior to the commencement of the fiscal year or prior to such other day as is prescribed for the class of business in which the corporation is engaged, the corporation has published an advertisement in the prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspaper or newspapers with the Treasurer before the end of the

thirtieth day of the fiscal year or within thirty days from the prescribed day, as the case may be.

(6) For the purpose of subsection 3, "3 per cent of the capital employed in the business at the commencement of the fiscal year" means, in any case where the fiscal year of the corporation is less than twelve months, that proportion of 3 per cent of the capital so employed at the commencement of the fiscal year that the number of days in the fiscal year is of 365. <sup>Interpre-
tation</sup>

(7) Where a payment has been received by a corporation in respect of an allocation in proportion to patronage, other than an allocation in respect of consumer goods or services, the amount thereof shall be included in computing the income of the recipient for the fiscal year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a person in respect of an allocation in proportion to patronage, the amount thereof shall be included in computing the income of the recipient for the fiscal year in which the certificate or share was received and not in computing his income for the fiscal year in which the indebtedness was subsequently discharged or the share was redeemed. <sup>Customer's
income</sup>

(8) For the purpose of this section, "capital employed in the business" means the capital at the beginning of the fiscal year and shall be computed in accordance with the following and is subject to the deductions or other adjustments provided in subsections 9 to 13: <sup>Interpre-
tation</sup>

1. So far as it consists of assets acquired by purchase on or after the incorporation of the corporation, the price at which those assets were acquired and, where the price of any asset has been satisfied otherwise than in cash, the value of the consideration actually given for that asset at the time the consideration was given shall be treated as the price at which such asset was acquired.
2. So far as it consists of assets being debts due to the corporation, the full amount of those debts subject to any deduction that has been allowed under this Act in respect thereof on account of bad debts.
3. So far as it consists of any other assets that have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the corporation.
4. The amount of money or bank deposits that is actually used by the corporation in its business.

Idem

(9) Capital employed in the business is subject to the following deductions:

1. Any sum contributed directly or indirectly by Canada or by any province of Canada towards the acquisition by the corporation of any asset referred to in subsection 8.
2. The total amount of depreciation that has been or should have been taken into account in accordance with this Act or any predecessor thereto plus any accumulated depreciation reserves at the commencement of this Act or any predecessor thereto recognized by the Treasurer for the purposes of this section, and in addition such amount on account of depletion as is deemed by the Treasurer to be fair and reasonable.
3. Any borrowed money and debts of the corporation, other than dividends declared but unpaid at the commencement of the fiscal year, except the amount of indebtedness represented by income bonds or income debentures, the interest on which is not allowed as a deduction under clause *f* of subsection 1 of section 23 or any provision under a former Act of like character and except the amount of indebtedness represented by a non-interest bearing advance from a corporation to its subsidiary that the Treasurer, in his sole discretion, determines to be in the nature of permanently invested capital.
4. Any investments the income from which is exempt or would be exempt from the tax imposed by section 4.
5. Any moneys, bank deposits, investments or other assets that are unproductive and are not required for the purposes of the business or that were not acquired for the purposes of the business.

Idem

(10) Capital employed in the business,

- (a) shall be increased by a portion of any *bona fide* additions to the assets of the corporation or reduction in the liabilities of the corporation in the fiscal year; and
- (b) shall be decreased by a portion of any *bona fide* reduction in the assets of the corporation or addition to the liabilities of the corporation in the fiscal year,

unless the increase or decrease results from profits or losses of the corporation in the fiscal year.

(11) The increase or decrease required by subsection 10 ^{Idem} is that proportion of the addition or reduction, as the case may be, that the number of days in the fiscal year after the addition or reduction occurs bears to the number of days in the fiscal year.

(12) Capital employed in the business shall be decreased by ^{Idem} the amount of dividends paid in cash during the fiscal year to the extent of one-half of the amount by which the capital, calculated in accordance with subsections 8 and 9, at the commencement of the fiscal year is greater than the capital so calculated at the commencement of the next succeeding fiscal year.

(13) Notwithstanding anything in this section, the com- ^{Idem} putation of capital employed in the business may be revised to disregard the whole or any portion of capital values resulting from a transaction deemed not to have been arranged at arm's length. 1957, c. 17, s. 47.

Special Contributions by Corporations to Superannuation Funds

51.—(1) Where a corporation is an employer and has made a special payment in a fiscal year on account of an employees' ^{Employer's payment to pension plan} superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, and has made the payment so that it is irrevocably vested in or for the fund or plan and the payment has been approved by the Treasurer, there may be deducted in computing the income of the corporation for the fiscal year the amount of the special payment. 1959, c. 20, s. 15 (1).

(2) For greater certainty and without restricting the ^{Application} generality of subsection 1, it is hereby declared that subsection 1 is applicable where the resources of a fund or plan required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan. 1957, c. 17, s. 48 (2).

Employees Profit Sharing Plan

Interpre-
tation

52.—(1) In this Act, “employees profit sharing plan” means an arrangement under which payments computed by reference to the profits from the business of a corporation or by reference to the profits from the business of a corporation and the profits, if any, from the business of a person with whom the corporation does not deal at arm’s length are made by the corporation to a trustee in trust for the benefit of officers or employees of the corporation or of a person with whom the corporation does not deal at arm’s length, whether or not payments are also made to the trustee by the officers or employees, and under which the trustee has, since the commencement of the plan or the end of 1949, whichever is later, each year allocated either contingently or absolutely to individual officers or employees,

- (a) all amounts received by him from the corporation or from a person with whom the corporation does not deal at arm’s length; and
- (b) all profits from the trust property, computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955,

in such manner that the aggregate of all such amounts and such profits minus such portion thereof as has been paid to beneficiaries under the trust is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder.

No tax
while trust
governed
by a plan

(2) No tax is payable under section 4 on the taxable income of the trust for a fiscal year during which the trust was governed by an employees profit sharing plan.

Corpora-
tion’s
contribution
to trust
deductible

(3) An amount paid by a corporation to a trustee under an employees profit sharing plan during a fiscal year or within 120 days thereafter may be deducted in computing the income of the corporation for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. 1957, c. 17, s. 49 (1-3).

Payment
out of
profits

(4) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made “out of profits”, such arrangement shall, if the corporation has so elected under subsection 7 of section 79 of the *Income Tax Act* (Canada), be deemed for the purpose of subsection 1 to be an arrangement

for payments "computed by reference to the profit of the corporation from its business". 1957, c. 17, s. 49 (4); 1958, c. 16, s. 20.

Supplementary Unemployment Benefit Plan

53.—(1) In this Act, "supplementary unemployment benefit plan" means an arrangement, other than an arrangement in the nature of a superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by a corporation to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the corporation who are or may be laid off for any temporary or indefinite period. 1957, c. 17, s. 50 (1); 1958, c. 16, s. 21.

Interpretation

(2) No tax is payable under section 4 upon the taxable income of the trust for a period during which the trust was governed by a supplementary unemployment benefit plan.

No tax while trust governed by plan

(3) An amount paid by a corporation to a trustee under a supplementary unemployment benefit plan during a fiscal year or within thirty days thereafter may be deducted in computing the income of the corporation for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. 1957, c. 17, s. 50 (2, 3).

Payments by corporation deductible

Undistributed Income

54.—(1) Where funds or property of a corporation have, at a time when the corporation had undistributed income on hand, been distributed or otherwise appropriated in any manner whatsoever to or for the benefit of one or more of its shareholders on the winding-up, discontinuance or reorganization of its business, a dividend shall be deemed to have been received at that time by each shareholder equal to the lesser of,

Undistributed income on hand

- (a) the amount or value of the funds or property so distributed or appropriated to him; or
- (b) his portion of the undistributed income then on hand.

(2) Where a corporation has, at a time when it had undistributed income on hand,

Deemed to be dividend

- (a) redeemed or acquired any of its common shares or reduced its common stock; or

- (b) converted any of its common shares into shares other than common shares or into some obligation of the corporation,

a dividend shall be deemed to have been received at that time by each of the persons who held any of the shares at that time equal to the lesser of,

- (i) the amount received or the value of that which was received by him for or in respect of the shares or the reduction or conversion, or
- (ii) his portion of the undistributed income then on hand.

Undistri-
buted
income
capitalized

(3) Where the whole or any part of the undistributed income on hand of a corporation has been capitalized, a dividend shall be deemed to have been received by each of the persons who held any of its shares immediately before the capitalization equal to the shareholder's portion of the undistributed income that was capitalized.

Undistri-
buted
income
reduced

(4) Where under this section a dividend has been deemed to have been received, the undistributed income on hand of the corporation paying it shall be deemed to have been reduced by the amount that the shareholders are so deemed to have received.

Stock
dividend

(5) Where a corporation has paid a stock dividend, the corporation shall for the purpose of subsection 3 be deemed to have capitalized immediately before the payment undistributed income on hand equal to the lesser of,

- (a) the undistributed income then on hand; or
- (b) the amount of the stock dividend.

Non-resident
corporation

(6) Except where the corporation is a non-resident corporation more than 50 per cent of the share capital of which having full voting rights under all circumstances belongs to non-residents, this section is applicable in computing the income of the shareholder for the purpose of this Part, whether or not the corporation had a permanent establishment in Canada.

Where
paid-up
capital
increased

(7) Where a corporation has at any time increased its paid-up capital otherwise than by,

- (a) payment of a stock dividend; or

- (b) a transaction that has increased the assets of the corporation by an amount not less than the amount by which its paid-up capital has been increased,

the corporation shall, for the purpose of subsection 3, be deemed to have capitalized at that time undistributed income on hand equal to the lesser of,

- (c) the undistributed income then on hand; or
- (d) the amount by which the paid-up capital of the corporation was so increased, minus the amount if any by which the assets of the corporation have been so increased. 1957, c. 17, s. 51.

55.—(1) In this Act, “undistributed income on hand” of a corporation at the end of or at any time in a specified fiscal year means the aggregate of the incomes of the corporation for the fiscal years beginning with the fiscal year that ended in 1917 and ending with the specified fiscal year minus the aggregate of the following amounts for each of those years:

1. Each loss sustained by the corporation for a fiscal year.
2. Each expense incurred or disbursement made by the corporation during one of those years that was not allowed as a deduction in computing income for one of those years under this Part, except,
 - (i) an expense incurred or a disbursement made in respect of the acquisition of property, including goodwill, or the repayment of loans or capital,
 - (ii) an outlay or expense the deduction of which was not allowed by reason of subsection 3 of section 23, or
 - (iii) unless the undistributed income on hand is being determined for the purpose of subsection 1 of section 54, any part of the payment referred to in section 51 that has not been allowed as a deduction in computing income of one of those years.
3. The amount by which all capital losses sustained by the corporation in those fiscal years exceeds all capital profits or gains made by the corporation in those fiscal years.

4. All amounts by which under other provisions of this Act the undistributed income on hand of the corporation has been deemed to have been reduced previous to the specified fiscal year.
5. Dividends paid by the corporation in those fiscal years except a dividend that was paid exclusively out of a surplus or accumulated profits on hand before the 1st day of January, 1917, and that was not taxable under the *Income War Tax Act* (Canada) as income of the recipient other than a dividend or any part of a dividend that is established to have been paid out of income for the fiscal year ending in 1917 that was earned before the 1st day of January, 1917, minus the aggregate of amounts if any that were deductible by the shareholders in respect of the dividends under the regulations made under subsection 3 of section 22 or that would have been so deductible if the shareholders had been taxable under section 4 for the fiscal year in which the dividends were received.
6. Premiums determined in the manner provided by subsection 3 paid by the corporation on redemption or acquisition of any of its shares other than common shares.

R.S.C. 1927,
c. 97

Share-
holder's
portion

(2) A shareholder's portion of undistributed income on hand of a corporation at any time, or any portion thereof, means the amount that would have been payable to him on the winding-up of the corporation at that time if the subscribed capital had been repaid and what remained to be distributed on the winding-up were an amount equal to the undistributed income on hand at that time, or the portion of it, as the case may be.

Premiums
on
redemption
or
acquisition
of capital
stock

(3) For the purpose of this section, a share has been redeemed or acquired at a premium if the amount payable by the corporation in respect of the redemption or acquisition exceeds,

- (a) the par value of the share, if it had a par value; or
- (b) if the share had no par value, the proportion of the paid-up capital of the corporation, immediately before the redemption or acquisition of the share, with respect to the class of shares to which the share belongs that 1 is of the number of issued shares

of the class immediately before the redemption or acquisition of the share,

and the premium is the amount of the excess.

(4) Notwithstanding anything contained in subsection 1, ^{Life insurance corporations} the undistributed income of a life insurance corporation on hand at any time means the amount that is at the credit of its shareholders' account at that time.

(5) For the purpose of paragraph 1 of subsection 1, "loss" ^{Interpretation} for a fiscal year means a loss computed by applying *mutatis mutandis* the provisions of this Part respecting the computation of the income of the corporation.

(6) Where subsection 1 is being applied to determine the ^{Determination} undistributed income on hand of a corporation at a specified time in a fiscal year after a dividend has been deemed by section 54 to have been received from the corporation in the fiscal year, the undistributed income on hand at the specified time is the undistributed income on hand of the corporation determined in accordance with the terms of subsection 1 minus the amount of the dividends that have been so deemed to have been received from the corporation at a previous time in the fiscal year.

(7) Where in the case of a corporation referred to in sub-^{Idem} section 8 of section 57 as a "predecessor corporation" subsection 1 is being applied to determine the undistributed income of the corporation on hand at any specified time after such time after 1954 as all or substantially all of the property of the corporation described in subsection 8 of section 57 has been acquired as described in that subsection, there shall not be included in the amount or amounts deductible under any paragraph of subsection 1 any amount in respect of expenses incurred by the corporation included in the aggregate determined under clause *e* of subsection 8 of section 57.

(8) For the purpose of paragraph 3 of subsection 1, ^{Interpretation}

- (a) where depreciable property of a corporation as defined by subsection 4 of section 31 has been disposed of in 1949 or a subsequent fiscal year, the capital loss arising from the disposition shall be deemed not to be more than the actual capital cost of the property to the corporation minus the capital cost thereof as determined for the purpose of section 31; and

- (b) where depreciable property of a corporation as defined by subsection 4 of section 31 has been disposed of in 1949 or a subsequent fiscal year, the capital profit or gain arising from the disposition shall be deemed not to be more than the proceeds of the disposition as defined in that subsection minus the capital cost of the property to the corporation as determined for the purpose of section 31.

Idem

(9) Where in the calculation of the undistributed income on hand of a corporation at any time there have been included in,

- (a) computing the amount determined by paragraph 5 of subsection 1; or
- (b) computing the amount by which the undistributed income on hand is deemed to be reduced by virtue of subsection 4 of section 54,

amounts that were not included in computing the income of the shareholders but that would have been so included if it were not for section 42, and the aggregate of those amounts exceeds the aggregate of the incomes of the corporation that were by section 42 deemed to have been distributed to its shareholders, the undistributed income of the corporation on hand at that time shall be deemed to be the amount that it would be if the aggregate of the deductions permitted by paragraphs 1 to 5 of subsection 1 were reduced by an amount equal to the excess.

Farming loss

(10) In the computation of a loss for the purpose of paragraph 1 of subsection 1, there shall not be included a loss sustained by a corporation in its farming business for a fiscal year in respect of which the Treasurer has determined under section 24 that the chief source of income of the corporation is neither farming nor a combination of farming and some other source of income except to the extent that the loss has been deducted in computing taxable income for a fiscal year under paragraph 3 of subsection 1 of section 39.

Idem

(11) Where the Treasurer has determined under section 24 that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, no expense or disbursement shall be included in the amount deductible under paragraph 2 of subsection 1 if the amount thereof is included in the computation of a loss sustained by the corporation for the fiscal year in its farming business.

(12) For the purpose of computing the undistributed income on hand of a corporation under subsection 1, the income of the corporation for a fiscal year shall, if subsection 4 of section 56 was applicable in the computation thereof, be deemed to be the amount that it would have been if subsection 4 of section 56 had not been applicable. ^{Mining income}

(13) Where more than 50 per cent of the issued share capital of a corporation has, between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by a person or persons who did not own any of the shares in the corporation at the time when it so ceased to carry on active business, if the corporation had no undistributed income on hand at the latter time, the reference in subsection 1 to "the fiscal year that ended in 1917" shall be deemed to be a reference to the fiscal year in which the corporation so commenced to carry on active business again. ^{Control acquired of inactive business}

(14) A person who has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation shall be deemed for the purpose of subsection 13 to have acquired the shares at the time he acquired the right. ^{Acquisition of shares}

(15) Where all of the assets and liabilities of an insurance corporation incorporated under or pursuant to the laws of a province, hereinafter in this subsection referred to as the "old corporation", have at a time when the corporation had undistributed income on hand been acquired by an insurance corporation incorporated under or pursuant to an Act of the Parliament of Canada, hereinafter in this subsection referred to as the "new corporation", under an arrangement whereby it is contemplated that the new corporation will carry on the business formerly carried on by the old corporation, and the paid-up capital of the new corporation was not, at the time of the acquisition of such assets and liabilities, less than the paid-up capital of the old corporation at that time, ^{Insurance corporations}

- (a) the amount of the dividend deemed by section 54 to have been received at that time by each of the persons who held any of the shares of the old corporation at that time shall be deemed to be the amount otherwise so deemed to have been received at that time by each such person minus the amount paid up on the shares of the old corporation so held by him; and

- (b) the undistributed income of the new corporation on hand immediately after that time as determined under subsection 1 shall be deemed to be the amount otherwise determined thereunder plus the amount of the undistributed income of the old corporation on hand immediately before that time. 1957, c. 17, s. 52.

Mining

Interpre-
tation

56.—(1) In this section,

- (a) “minerals” does not include petroleum or natural gas;
- (b) “mining property” means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content;
- (c) “prospector” means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others, or as an employee.

Amount not
included in
income

(2) An amount that would otherwise be included in computing the income for a fiscal year of a corporation that has, either under an arrangement with a prospector made before the prospecting, exploration or development work or as employer of the prospector, advanced money for or paid part or all of the expenses of prospecting or exploring for minerals or of developing a property for minerals shall not be included in computing the income of the corporation for the year if it is the consideration for,

- (a) an interest in the mining property acquired under the arrangement under which the corporation made the advance or paid the expenses or, if the prospector was the employee of the corporation, acquired by the corporation through the prospector’s efforts; or
- (b) shares of the capital stock of another corporation received by the corporation in consideration for property described in clause *a* that the corporation disposed of to the corporation issuing the shares.

Non-
application

(3) Clause *b* of subsection 2 does not apply,

- (a) in the case of a corporation that disposes of the shares while or after carrying on a campaign to sell the shares of the issuing corporation to the public; or

- (b) to shares acquired by the exercise of an option to purchase shares received as consideration for property described in clause *a* of subsection 2.

(4) Subject to the prescribed conditions, there shall not be included in computing the income of a corporation income derived from the operation of a mine during the period of thirty-six months commencing with the day on which the mine came into production. Exemption for three years

(5) In subsection 4,

- (a) "mine" does not include an oil well, gas well, brine well, sand pit, gravel pit, clay pit, shale pit or stone quarry, other than the deposit of oil shale or bituminous sand; and Interpretation
- (b) "production" means production in reasonable commercial quantities. 1957, c. 17, s. 53.

Exploration, Prospecting and Development Expenses

57.—(1) A corporation the principal business of which is production, refining or marketing of petroleum, petroleum products or natural gas or exploring or drilling for petroleum or natural gas may deduct in computing its income under this Part for a fiscal year the lesser of, Deduction from income of petroleum or natural gas corporations

- (a) the aggregate of such of the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada as were incurred during the calendar years 1949 to 1952, to the extent that they were not deductible in computing income for a previous fiscal year; or
- (b) of that aggregate, an amount equal to the income of the corporation for the fiscal year,
- (i) if no deduction were allowed under clause *b* of subsection 2 of section 22, and
- (ii) if no deduction were allowed under this section, minus the deductions allowed for the fiscal year by subsection 8 of this section and by subsection 1 of section 40. 1957, c. 17, s. 54 (1); 1958, c. 16, s. 22 (1).

Deduction
from income
of mining
corporations

(2) A corporation the principal business of which is mining or exploring for minerals may deduct in computing its income under this Part for a fiscal year the lesser of,

- (a) the aggregate of such of the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada as were incurred during the calendar year 1952, to the extent that they were not deductible in computing income of a previous fiscal year; or
- (b) of that aggregate an amount equal to its income for the fiscal year,
 - (i) if no deduction were allowed under clause *b* of subsection 2 of section 22, and
 - (ii) if no deduction were allowed under this section,

minus the deductions allowed for the year by subsection 8 of this section and by subsection 1 of section 40,

if the corporation has filed certified statements of such expenses and has satisfied the Treasurer that it has been actively engaged in prospecting and exploring for minerals in Canada by means of qualified persons and has incurred these expenses for such purposes. 1957, c. 17, s. 54 (2); 1958, c. 16, s. 22 (2).

Deduction
from income
of
petroleum
or natural
gas
corporations
or mining
corporations

(3) A corporation the principal business of which is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

may deduct in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of such of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and

- (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the calendar year 1952 and before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; or

- (d) of that aggregate, an amount equal to its income for the fiscal year,

- (i) if no deduction were allowed under clause *b* of subsection 2 of section 22, and

- (ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 1, 2 and 8 of this section and by subsection 1 of section 40. 1957, c. 17, s. 54 (3); 1958, c. 16, s. 22 (3).

(4) In computing a deduction under subsection 1 or 3, no amount shall be included in respect of a payment for or in respect of a right, licence or privilege to explore for, drill for or take petroleum or natural gas other than an annual payment not exceeding \$1 per acre. 1957, c. 17, s. 54 (4). Limitation
re payments
for
exploration
and drilling
rights

(5) Notwithstanding subsection 4, where a corporation the principal business of which is of the class described in clause *a* or *b* of subsection 3 has after 1952 paid an amount, other than a rental or royalty, to the Government of Canada or of a province for, Bonus
payments

- (a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada, which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or
- (b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

and the corporation has, before any well came into production on the land in reasonable commercial quantities, surrendered all its rights so acquired, including, in respect of a right of the kind described in clause *a*, all rights thereunder to any lease and all rights under any lease made thereunder, without

receiving any consideration therefor or repayment of any part of the amount so paid, the amount so paid shall, for the purpose of subsection 3, be deemed to have been an expense incurred by the corporation as a drilling or exploration expense on or in respect of exploring or drilling for petroleum or natural gas in Canada during the fiscal year in which its rights were so surrendered. 1959, c. 20, s. 16 (1).

Expenses
incurred for
specified
considera-
tions not
deductible

(6) For the purpose of this section, it is hereby declared that expenses incurred by a corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada or in searching for minerals in Canada do not and never did include expenses so incurred by that corporation pursuant to an agreement under which it undertook to incur those expenses in consideration for,

- (a) shares of the capital stock of a corporation that owned or controlled the mineral rights;
- (b) an option to purchase shares of the capital stock of a corporation that owned or controlled the mineral rights; or
- (c) a right to purchase shares of the capital stock of a corporation that was to be formed for the purpose of acquiring or controlling the mineral rights. 1957, c. 17, s. 54 (6).

Exception

(7) Notwithstanding subsection 6, a corporation the principal business of which is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas and exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

may deduct in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of such of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
 - (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the calendar year 1953 and before the end of the fiscal year,

(iii) pursuant to an agreement under which it undertook to incur those expenses for a consideration mentioned in clause *a*, *b* or *c* of subsection 6, and

(iv) to the extent that they were not deductible in computing income for a previous fiscal year; or

(*d*) of that aggregate, an amount equal to its income for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 22, and

(ii) if no deduction were allowed under this subsection,

minus any deduction allowed for the fiscal year by subsection 1 of section 40,

but where a corporation has incurred expenses the deduction of which from income for a fiscal year is authorized by this subsection, no deduction in respect of those expenses may be made under this section in computing the income of any other corporation for that or any other fiscal year. 1957, c. 17, s. 54 (7); 1958, c. 16, s. 22 (4).

(8) Notwithstanding subsection 7, where a corporation, Property acquired by successor corporation hereinafter in this subsection referred to as the "successor corporation", the principal business of which is,

(*a*) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas; or

(*b*) mining or exploring for minerals,

has, at any time after 1954, acquired from a corporation, hereinafter in this subsection referred to as the "predecessor corporation", the principal business of which was production, refining or marketing of petroleum, petroleum products or natural gas, exploring or drilling for petroleum or natural gas, or mining or exploring for minerals, all or substantially all of the property of the predecessor corporation used by it in carrying on that business in Canada,

- (c) pursuant to the purchase of such property by the successor corporation in consideration of shares of the capital stock of the successor corporation; or
- (d) as a result of the distribution of such property to the successor corporation upon the winding-up of the predecessor corporation subsequent to the purchase of all or substantially all of the shares of the capital stock of the predecessor corporation by the successor corporation in consideration of the shares of the capital stock of the successor corporation,

there may be deducted by the successor corporation in computing its income under this Part for a fiscal year the lesser of,

- (e) the aggregate of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the predecessor corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
 - (ii) the prospecting, exploration and development expenses incurred by the predecessor corporation in searching for minerals in Canada,

to the extent that such expenses,

- (iii) were not deductible by the successor corporation in computing its income for a previous fiscal year and were not deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for a previous fiscal year, and
- (iv) would, but for the provisions of clause *b* of subsection 1, clause *b* of subsection 2, clause *d* of subsection 3 and clause *d* of subsection 7 or any of those clauses or this subsection, have been deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation; or

(f) of that aggregate, an amount equal to such part of its income for the year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 22, and

(ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 40, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor corporation had, immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of such expenses included in the aggregate determined under clause *e*, no deduction may be made under this section by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for any subsequent fiscal year. 1957, c. 17, s. 54 (8); 1958, c. 16, s. 22 (5, 6).

(9) A reference in subsection 3, 5, 7 or 8 to a corporation, the principal business of which is mining or exploring for minerals, shall, for the purposes of this section and subsection 7 of section 55, be deemed to include a reference to a corporation, the principal business of which is processing mineral ores for the purpose of recovering metals therefrom or a combination of, ^{Processing corporations}

(a) processing mineral ores for the purpose of recovering metals therefrom; and

(b) processing metals recovered from the ores so processed;

but in making applicable this section and subsection 7 of section 55 to any such corporation there shall be substituted,

(c) for the references, respectively, in subsections 3, 5, 7 and 8 to the years 1952, 1952, 1953 and 1954, a reference in each case to the year 1956; and

- (d) for the reference in subsection 7 of section 55 to the year 1954, a reference to the year 1956. 1958, c. 16, s. 22 (7).

Extended
meaning of
"drilling and
exploration
expenses"

(10) For the purposes of this section and section 65, "drilling and exploration expenses" incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada includes expenses incurred on or in respect of,

- (a) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well in Canada;
- (b) drilling for water or gas for injection into a petroleum or natural gas formation in Canada; and
- (c) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well in Canada. 1959, c. 20, s. 16 (2).

General
limitation

(11) Where a corporation has incurred expenses that may be deducted from income under more than one provision of this section, it is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

Expenses
deductible
under
certain
enactments
deemed not
otherwise
deductible
R.S.C. 1952,
c. 148

(12) Where expenses are or have been under this section or corresponding sections of Acts referred to in subsection 12 of section 83A of the *Income Tax Act* (Canada) deductible from or in computing the income of the corporation, or where any amount is or has been deductible in respect of the expenses under any of those provisions from taxes otherwise payable, it is hereby declared that no amount in respect of the same expenses is or has been deductible under any other authority in computing the income or from the income of that corporation or any other corporation for that fiscal year or any other fiscal year. 1957, c. 17, s. 54 (9, 10).

Crown Corporations

Application
of Act to
certain
corporations

58.—(1) Where a corporation to which the exemptions provided by subsection 37 of section 4, subsection 17 of section 5 and the specially reduced tax provided by subsection 8 of section 6 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. 1959, c. 20, s. 17 (1)

Idem

(2) Where a corporation prescribed in the regulations has acquired depreciable property before the commencement of

the first fiscal year commencing after 1951, for the purpose of section 31 and the regulations made under clause *a* of subsection 2 of section 22, that property shall be deemed to have been acquired at a capital cost equal to the amount that according to the books of the corporation was its value at the commencement of that fiscal year. 1957, c. 17, s. 55 (2); 1958, c. 16, s. 23.

(3) For the purpose of computing a deduction under paragraph 3 of subsection 1 of section 39, a corporation prescribed in the regulations shall be deemed not to have had income or a loss for a fiscal year before the first fiscal year commencing after 1951. 1957, c. 17, s. 55 (3). Previous income and losses

(4) Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. 1957, c. 17, s. 55 (4); 1959, c. 20, s. 17 (2). Interpretation

Railway Companies

59.—(1) Notwithstanding subsection 2 of section 58, where property of the following description, namely, Capital cost of certain property

(a) railway track or railway track grading; or

(b) a crossing,

has before 1956 been acquired by a corporation, that property shall for the purposes of section 31 and the regulations made under clause *a* of subsection 2 of section 22 be deemed to have been acquired at a capital cost equal to the amount that according to the books of the corporation was its value at the close of its fiscal year ending in 1955. 1957, c. 17, s. 56 (1); 1958, c. 16, s. 24 (1).

(2) For the purpose of this section, in determining the amount that according to the books of the corporation was the value of any property at the close of its fiscal year ending in 1955, no amount shall be included in respect of property that at that time was leased from any other person. 1957, c. 17, s. 56 (2). Idem

(3) Where any amount in respect of an expenditure incurred by a corporation on or in respect of the repair, replacement, alteration or renovation of depreciable property of the corporation of a class prescribed by the regulations made Repairs, replacements, etc.

R.S.C. 1952,
c. 234 for the purpose of this section is, under any uniform classification and system of accounts and returns prescribed by the Board of Transport Commissioners for Canada pursuant to the *Railway Act* (Canada), required to be entered in the books of the corporation otherwise than as an expense,

- (a) no deduction may be made in respect of that expenditure in computing the income of the corporation for a fiscal year; and
- (b) for the purpose of section 31 and the regulations made under clause *a* of subsection 2 of section 22, the corporation shall be deemed to have acquired at the time the expenditure was incurred depreciable property of that class at a capital cost equal to that amount. 1957, c. 17, s. 56 (3); 1958, c. 16, s. 24 (2).

Interpre-
tation

(4) In this section, "crossing" means any railway crossing of a highway, or any highway crossing of a railway, and every manner of construction of the railway or of the highway by the elevation or depression of the one above or below the other, or by the diversion of one or the other, and any work ordered or authorized by the Board of Transport Commissioners for Canada to be provided as one work for the protection, safety and convenience of the public in respect of one or more railways of as many tracks crossing or so crossed as the Board of Transport Commissioners for Canada in its discretion determines. 1957, c. 17, s. 56 (4).

Special Reserves

Special
reserves

60.—(1) In computing the income of a corporation for a fiscal year,

- (a) every amount received in the fiscal year in the course of a business,
 - (i) that is on account of services not rendered or goods not delivered before the end of the fiscal year or that for any other reason may be regarded as not having been earned in the fiscal year or a previous fiscal year, or
 - (ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the corporation of articles in or by means of which goods were delivered to a customer,

shall be included;

- (b) every amount receivable in respect of property sold or services rendered in the course of the business in the fiscal year shall be included notwithstanding that the amount is not receivable until a subsequent fiscal year unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require the corporation to include any amount receivable in computing its income for a fiscal year unless it has been received in that fiscal year;
- (c) subject to subsection 3, where amounts of a class described in subclause i or ii of clause *a* have been included in computing the income of a corporation from a business for the fiscal year or a previous fiscal year, there may be deducted a reasonable amount as a reserve in respect of,
 - (i) goods that it is reasonably anticipated will have to be delivered after the end of the fiscal year,
 - (ii) services that it is reasonably anticipated will have to be rendered after the end of the fiscal year,
 - (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
 - (iv) repayments under arrangements or understandings of the class described in subclause ii of clause *a* that it is reasonably anticipated will have to be made after the end of the fiscal year on the return or resale to the corporation of articles other than bottles;
- (d) where an amount has been included in computing the income of a corporation from its business for the fiscal year or for a previous fiscal year in respect of property sold in the course of the business and that amount or a part thereof is not receivable until a day,
 - (i) more than two years after the day on which the property was sold, and
 - (ii) after the end of the fiscal year,

there may be deducted a reasonable amount as a reserve in respect of that part of the amount so

included in computing the income that can reasonably be regarded as a portion of the profit from the sale; and

- (e) there shall be included the amounts deducted under clauses *c* and *d* in computing the income of the corporation for the immediately preceding fiscal year. 1957, c. 17, s. 57 (1); 1958, c. 16, s. 25; 1960, c. 14, s. 13.

Interpre-
tation

(2) Clauses *a* and *b* of subsection 1 are enacted for greater certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing the income from a business for a fiscal year whether or not it is received or receivable in the fiscal year.

Special
reserves

(3) Where an amount is deductible in computing income for a fiscal year under clause *c* of subsection 1 as a reserve in respect of,

- (a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the fiscal year; or

- (b) transportation that it is reasonably anticipated will have to be provided after the end of the fiscal year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of the amounts included in computing the income of the corporation from the business for the fiscal year that were received or receivable, depending upon the method regularly followed by the corporation in computing its profit, in the fiscal year in respect of,

- (c) articles of food or drink not delivered before the end of the fiscal year; or

- (d) transportation not provided before the end of the fiscal year,

as the case may be.

Exception

(4) Clause *c* of subsection 1 does not apply to allow a deduction as a reserve in respect of guarantees, indemnities or warranties.

Policy
reserves

(5) Clause *c* of subsection 1 does not apply to allow a deduction as a reserve in respect of insurance, but an insurance corporation, other than a life insurance corporation, may in computing its income from its insurance business for a fiscal

year deduct as policy reserves such amounts as have been approved for the purpose of this subsection by the Treasurer.

(6) Clause *c* of subsection 1 does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions, but a corporation may in computing its income from a business as an insurance agent or a broker for a fiscal year deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in computing its income for the fiscal year or a previous fiscal year as a commission in respect of an insurance contract, other than a life insurance contract, that,

- (a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the fiscal year,

is of,

- (b) the whole of that period. 1957, c. 17, s. 57 (2-6).

(7) Clause *c* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in any case where the income of the corporation for the fiscal year from that business is computed in accordance with the method authorized by subsection 1 of section 63. 1959, c. 20, s. 18.

(8) For the purpose of clause *e* of subsection 1, an amount determined under subsection 3 or an amount deducted under subsection 5 or 6 shall be deemed to have been deducted under clause *c* of subsection 1. 1957, c. 17, s. 57 (7).

Accounts Receivable

61.—(1) Where a person who has been carrying on a business has in a fiscal year sold all or substantially all the property used in carrying on the business, including the debts that had been or will be included in computing his income for that fiscal year or a previous fiscal year and that are still outstanding, to a purchaser who proposes to continue the business that the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in the prescribed form to have this section apply, the following applies:

1. There may be deducted in computing the income of the vendor for the fiscal year an amount equal to

the difference between the face value of the debts so sold, other than debts in respect of which the vendor has made deductions under clause *i* of subsection 1 of section 22 and the consideration paid by the purchaser to the vendor for the debts so sold.

2. An amount equal to the difference described in paragraph 1 shall be included in computing the income of the purchaser for the fiscal year.
3. The debts so sold shall be deemed for the purpose of clauses *h* and *i* of subsection 1 of section 22 to have been included in computing the income of the purchaser for the fiscal year or a previous fiscal year, but no deduction may be made by the purchaser under clause *i* of subsection 1 of section 22 in respect of a debt in respect of which the vendor has previously made a deduction.
4. Each amount deducted by the vendor in computing income for a previous fiscal year under clause *i* of subsection 1 of section 22 in respect of any of the debts so sold shall be deemed for the purpose of clause *f* of section 17 to have been so deducted by the purchaser.

Statement
by vendor
and
purchaser

(2) An election executed for the purpose of subsection 1 shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement is, as against the Treasurer, binding upon the vendor and the purchaser in so far as it may be relevant in respect of any matter arising under this Act. 1957, c. 17, s. 58.

Sale of Inventory

Sale of
inventory

62.—(1) Where upon or after disposing of or ceasing to carry on a business or a part of a business a corporation has sold all or any part of the property that was included in the inventory of the business, the property so sold shall for the purposes of this Part be deemed to have been sold by the corporation,

- (a) during the last fiscal year in which the corporation carried on the business or part of the business; and
- (b) in the course of carrying on the business.

Agreement
as to price
paid by
vendor and
purchaser

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the

inventory of the business, whether or not he has disposed of or ceased to carry on that business or a part of that business, to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following applies:

1. Such part of the consideration as the vendor and the purchaser have in writing agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid.
2. Where an agreement as contemplated by paragraph 1 has not been filed with the Treasurer within sixty days after notice in writing by the Treasurer has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Act, such part of the consideration paid as is fixed by the Treasurer shall be deemed to be the price agreed upon by them as the price paid for the properties so sold.

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 1 of section 63.

Reference
to property
included in
inventory

(4) Where an amount is included in computing the income of a corporation for a fiscal year by virtue of this section, the corporation may elect to pay as tax for the fiscal year under section 4, in lieu of the amount that would otherwise be payable, an amount equal to the aggregate of,

Election

- (a) the tax that would be payable by the corporation for the fiscal year under section 4 if no amount were included in computing its income for the fiscal year by virtue of this section; and
- (b) the aggregate of the amounts by which the tax payable under section 4 would have been increased if one-third of the amount so included by virtue of this section had been included in computing the income of the corporation for each of the three

fiscal years ending with the last fiscal year in which it carried on the business or the part of the business referred to in subsection 1,

and in any such case the election is not valid unless the corporation was during each of those three years carrying on that business. 1957, c. 17, s. 59.

*Special Method of Computing Income:
Sale of Accounts Receivable*

Special
method of
computing
income

R.S.C. 1952,
c. 148

63.—(1) For the purpose of computing the income of a corporation for a fiscal year from the business of farming, the income from the business for that fiscal year shall, if the corporation so elects under subsection 1 of section 85F of the *Income Tax Act* (Canada), be computed in accordance with a method hereinafter in this section referred to as the “cash” method, whereby the income therefrom for that fiscal year shall be deemed to be an amount equal to,

(a) the aggregate of all amounts that,

- (i) were received in the fiscal year, or are deemed by this Act to have been received in that fiscal year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefrom for that or any other fiscal year,

minus,

(b) the aggregate of all amounts that,

- (i) were paid in the fiscal year, or are deemed by this Act to have been paid in the fiscal year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be deductible in computing income therefrom for that or any other fiscal year,

and minus any deduction for the fiscal year permitted by clause a of subsection 2 of section 22. 1957, c. 17, s. 60 (1); 1958, c. 16, s. 26; 1959, c. 20, s. 19; 1960, c. 14, s. 14.

(2) Subsection 1 does not apply for the purpose of computing ^{Exception} the income of a corporation for a fiscal year from a business carried on by it jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that fiscal year computed in accordance with the method authorized by subsection 1 of section 85F of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(3) Where a corporation has filed a return under this Act ^{Concurrence of the Treasurer} for a fiscal year wherein its income for that fiscal year from the business of farming has been computed in accordance with the method authorized by subsection 1, income from the business for a subsequent fiscal year shall subject to other provisions of this Part be computed in accordance with that method unless the corporation, with the concurrence of the Treasurer and upon such terms and conditions as are specified by the Treasurer, adopts some other method.

(4) There shall be included in computing the income of a ^{Accounts receivable} corporation for a fiscal year such part of an amount received by it in the fiscal year, upon or after disposing of or ceasing to carry on a business or part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing the income of the corporation for the fiscal year had the amount so received been received by it in the course of carrying on the business.

(5) Subsection 4 of section 62 applies *mutatis mutandis* ^{Election} where any amount is included in computing the income of a corporation for a fiscal year by virtue of subsection 4. 1957, c. 17, s. 60 (2-5).

Mortgage Reserves

64. In computing the income for a fiscal year of a cor- ^{Special mortgage reserves} poration the business of which includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property,

(a) there may be deducted as a reserve, in lieu of any deduction under clause *h* of subsection 1 of section 22, the lesser of,

(i) 3 per cent of the aggregate of,

(A) each amount outstanding at the end of the fiscal year as or on account of the principal amount of loans made by

the corporation on the security of a mortgage, hypothec or agreement of sale of real property, or as or on account of the principal amount of any such mortgage, hypothec or agreement of sale purchased by the corporation,

- (B) each amount due and unpaid at the end of the fiscal year or on account of interest payable to the corporation under a mortgage, hypothec or agreement of sale of real property, and
- (C) each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the fiscal year and that was acquired by foreclosure or otherwise after default made under a mortgage, hypothec, agreement of sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the fiscal year has been included under paragraph A or B,

or

- (ii) the amount if any deducted under this clause as a reserve in computing the income of the corporation for the immediately preceding fiscal year, plus one-twelfth of the amount determined under subclause i,

but no deduction may be made under this clause as a reserve in respect of loans made on the security of a mortgage or hypothec under the *National Housing Act, 1954* (Canada) or any of the Housing Acts as defined in clause *e* of section 2 of the *Central Mortgage and Housing Corporation Act* (Canada); and

1953-4,
c. 23 (Can.)

R.S.C. 1952,
c. 46

- (b) there shall be included the amount deducted under clause *a* as a reserve in computing the income of the corporation for the immediately preceding fiscal year. 1957, c. 17, s. 61; 1959, c. 20, s. 20.

Amalgamation of Corporations

65.—(1) In this section, an amalgamation of two or more ^{Interpre-}corporations means a merger of such corporations, each of ^{tation} which is in this section referred to as a “predecessor corporation”, to form one corporate entity in this section referred to as the “new corporation”, in such manner that,

- (a) all of the property of the predecessor corporations immediately before the amalgamation becomes property of the new corporation by virtue of the amalgamation;
- (b) all of the liabilities of the predecessor corporations immediately before the amalgamation become liabilities of the new corporation by virtue of the amalgamation; and
- (c) all of the shareholder, except a predecessor corporation, of the predecessor corporations immediately before the amalgamation become shareholders of the new corporation by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one corporation by another corporation pursuant to the purchase of such property by the other corporation or as the result of the distribution of such property to the other corporation upon the winding-up of the corporation. 1959, c. 20, s. 21, *part*.

(2) Where there has been an amalgamation of two or more ^{Rules}corporations, the following applies: ^{applicable}

1. For the purposes of this Act, the first fiscal year of ^{Fiscal}the new corporation shall be deemed to have com- ^{year of} ^{corporation}menced at the time of the amalgamation, and a fiscal year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation.
2. For the purpose of computing the income of the ^{Inventory}new corporation for its first fiscal year, where the property described in its inventory, if any, at the commencement of that fiscal year includes,

- (a) property that was described in the inventory of a predecessor corporation at the end of its

fiscal year that ended immediately before the amalgamation, which fiscal year is in this section referred to as its "last fiscal year"; or

- (b) property that would have been described in the inventory of the predecessor corporation at the end of its last fiscal year if its income for that fiscal year had not been computed in accordance with the method authorized by subsection 1 of section 63,

the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first fiscal year for an amount determined in accordance with section 25 as the value thereof for the purpose of computing the income of the predecessor corporation for its last fiscal year, except that, where the income of the predecessor corporation for its last fiscal year was computed in accordance with the method authorized by subsection 1 of section 63, the amount so determined shall be deemed to be nil.

Method
adopted for
computing
income

3. Where the method adopted by the new corporation for computing its income for a fiscal year is not the same as the method adopted by a predecessor corporation for computing its income for its last fiscal year or a previous fiscal year, in computing the income of the new corporation for that fiscal year,
 - (a) there shall be included any amount received by it in that fiscal year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that fiscal year; and
 - (b) there may be deducted any amount paid by it in that fiscal year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that fiscal year.

4. For the purpose of clause *a* of subsection 2 of section 22 and section 31, Capital cost,
etc., of
depreciable
property

(a) where depreciable property is acquired by the new corporation from a predecessor corporation, the capital cost of the depreciable property to the new corporation shall be deemed to be the amount that was the capital cost thereof to the predecessor corporation; and

(b) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,

(i) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of depreciable property of that class immediately before the amalgamation, and

(ii) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of depreciable property of that class acquired by virtue of the amalgamation.

5. For the purpose of computing the income of the new corporation for a fiscal year, any amount that has been deducted as a reserve under clause *h* of subsection 1 of section 22, section 60 or section 64 in computing the income of a predecessor corporation for its last fiscal year shall be deemed to have been deducted as a reserve thereunder in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year. Reserves

6. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *h* or *i* of subsection 1 of section 22 or section 64, where any debt owing to a predecessor corporation, Debts

(a) that was included in computing the income of the predecessor corporation for its last fiscal year or a previous fiscal year; or

- (b) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of the ordinary business of which was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous fiscal year or that arose from a loan so made by it, as the case may be.

Charitable
donations

7. For the purpose of paragraph 1 of subsection 1 of section 39, gifts made by a predecessor corporation in its last fiscal year shall, to the extent that they were not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the new corporation in a fiscal year immediately preceding its first fiscal year.

Business
losses

8. For the purpose of paragraph 3 of subsection 1 of section 39, business losses sustained by a predecessor corporation are not deductible in computing the taxable income of the new corporation.

Un-
distributed
income

9. For the purpose of computing the undistributed income of the new corporation on hand at any time, where a predecessor corporation had undistributed income on hand immediately before the amalgamation, the amount thereof shall be added to the amount determined under subsection 1 of section 55 from which the aggregate of the amounts referred to in paragraphs 1 to 6 thereof is to be subtracted. 1959, c. 20, s. 21, *part*; 1960, c. 14, s. 15.

Exploration,
prospecting
and develop-
ment
expenses

- (3) Notwithstanding subsection 7 of section 57, where there has been an amalgamation of two or more corporations after the year 1957 and the principal business of the new corporation is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;
- (b) mining or exploring for minerals;
- (c) processing mineral ores for the purpose of recovering metals therefrom; or

- (d) a combination of processing mineral ores for the purpose of recovering metals therefrom and processing metals recovered from the ore so processed,

there may be deducted by the new corporation in computing its income for a fiscal year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, an amount that is the lesser of,

- (e) the aggregate of,

- (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the predecessor corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
- (ii) the prospecting, exploration and development expenses incurred by the predecessor corporation in searching for minerals in Canada,

to the extent that such expenses,

- (iii) were not deductible by the new corporation in computing its income for a previous fiscal year and were not deductible by the predecessor corporation in computing its income for its last fiscal year or its income for a previous fiscal year, and
 - (iv) would, but for the provisions of clause *b* of subsection 1 of section 57, clause *b* of subsection 2 of section 57, clause *d* of subsection 3 of section 57 and clause *d* of subsection 7 of section 57, or any of those clauses, have been deductible by the predecessor corporation in computing its income for its last fiscal year; or
- (f) of the aggregate determined under clause *e*, an amount equal to such part of the income of the new corporation for the fiscal year,
 - (i) if no deduction were allowed under clause *b* of subsection 2 of section 22, and
 - (ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 40, as may reasonably be

regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under clause *e* shall, where subsection 1 of section 55 is being applied to determine for the purpose of rule 1 of subsection 2 of this section the undistributed income of the predecessor corporation on hand immediately before the amalgamation, be included in the amount or amounts deductible under any paragraph of subsection 1 of section 55. 1959, c. 20, s. 21, *part*.

Tax on
tax

R.S.C. 1952,
c. 148

66. Where under a contract, will or trust made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

- (a) the tax payable by the corporation under Part II of this Act for the fiscal year in or in respect of which such a payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the fiscal year plus,
 - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,
 - (A) the payment, and
 - (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and
 - (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the fiscal year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and

- (b) if the person required to make the payments is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a fiscal year, such corporation is not entitled to deduct the amount determined under subclause ii of clause *a*. 1959, c. 20, s. 22; 1960, c. 14, s. 16.

PART IV

COMPUTATION OF PAID-UP CAPITAL

DIVISION A—TAXABLE PAID-UP CAPITAL

67. The taxable paid-up capital of a corporation shall be measured as at the close of the fiscal year for which the tax imposed by section 5 is levied and is its paid-up capital minus the deductions permitted by Division C. 1957, c. 17, s. 62.

DIVISION B—COMPUTATION OF PAID-UP CAPITAL

68. The paid-up capital of a corporation for a fiscal year is its paid-up capital as it stood at the close of the fiscal year and includes the paid-up capital stock of the corporation, its earned, capital and any other surplus, all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under Part III, all sums or credits advanced or loaned to the corporation by any other corporation, excluding a bank, and all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. 1957, c. 17, s. 63.

DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL

69.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a fiscal year, there may be deducted from its paid-up capital as at the close of the fiscal year such of the following amounts as are applicable:

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Treasurer has no value, but this deduction applies

to no more than 50 per cent of the book value of such goodwill or other intangible thing;

Discount
on shares

R.S.O. 1960,
c. 71

- (b) the amount of the discount allowed on the sale of the shares of a corporation to which Part IV of *The Corporations Act* applies;

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a* and *b*, which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the corporation remaining after the deductions of the amounts provided by clauses *a* and *b*, but cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under section 5 shall be deemed not to be loans and advances to other corporations;

Capital
held in
mining

- (d) in the case of a corporation engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *c* which the total of,

(i) the amount held or used in the survey for exploration and development of minerals,

(ii) the amount invested in the mine as defined by *The Mining Tax Act*,

(iii) the amount invested in the plant and works necessary to and forming part of such mine, and

(iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

bears to the total assets remaining after the deduction of the amounts provided by clauses *a*, *b* and *c*.

Interpre-
tation

- (2) For the purpose of this Part, "total assets" includes any amount,

- (a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;
- (b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part III,

and excludes any amount,

- (c) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under Part III. 1957, c. 17, s. 64.

(3) In computing the paid-up capital of a non-resident corporation for a fiscal year, there shall not be included the amount of the paid-up capital invested in a ship or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a fiscal year, to exclude the income for the fiscal year earned in Canada from the operation of such ship or aircraft under clause *b* of section 21. 1960, c. 14, s. 17.

Ship or aircraft of non-resident corporation, amounts not included in computing paid-up capital

70.—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such stock, mileage or other subject stood at the close of the fiscal year of the corporation for which the tax is imposed.

How tax to be determined

(2) Any tax imposed by this Act that is to be calculated in respect of, Idem

- (a) the taxable income of a corporation;
- (b) the numbers of places of business of a corporation; or
- (c) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned, the maximum number of places of business open, the gross premiums that become payable, as the case may be, during the fiscal year of the corporation for which the respective tax is imposed. 1957, c. 17, s. 65.

PART V

RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

DIVISION A—RETURNS

Annual
return

71.—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its fiscal year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or demand in writing from the Treasurer or from any officer of the Treasury Department authorized by the Treasurer to make such demand, deliver to the Treasurer such return as is required for the purpose of carrying out the provisions of this Act.

Verification
of returns

(2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Treasurer requires. 1957, c. 17, s. 66.

Penalty
for default

72.—(1) Every corporation that fails to deliver a return as and when required by subsection 1 of section 71 shall pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the fiscal year that was unpaid at that time was less than \$10,000; and

(b) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid.

Failure to
complete
return

(2) Every corporation that fails to complete the information required on the return to be delivered under subsection 1 of section 71 is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

(3) Every person who has,

False
statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both. 1957, c. 17, s. 67.

73. The Treasurer may enlarge the time for making any return before or after the time for making it. 1957, c. 17, s. 68.

Extended
time for
making
returns

DIVISION B—PAYMENTS

74.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each fiscal year for which such taxes are imposed pass.

Taxes, when
to accrue

(2) Every corporation on which a tax is imposed by this Act shall pay the tax, as estimated by the corporation on its taxable income or other subject for the last preceding fiscal year or for the fiscal year in respect of which the tax

Dates of
payment

is payable, at the rates applicable for the last-mentioned fiscal year, in four equal instalments,

- (a) on or before the fifteenth day of the fifth, eighth and eleventh months of the fiscal year in respect of which the tax is payable; and
- (b) on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable.

Special cases

(3) Notwithstanding subsection 2 and subject to subsection 4 of section 75, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$81, the corporation may, instead of paying the instalments required by subsection 2, pay such tax on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable.

Balance of tax, when payable

(4) Every corporation shall pay the amount if any by which any tax payable as estimated by the corporation to be payable in the return required to be delivered by subsection 1 of section 71 exceeds the amounts paid under subsection 2 or 3, as the case may be, at the time of making such return. 1957, c. 17, s. 69.

Interest on unpaid tax

75.—(1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 71 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at the rate of 6 per cent per annum.

Idem

(2) Where a corporation is required by subsection 2 of section 74 to pay a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest on the amount it failed to pay at 6 per cent per annum from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier.

Special cases

(3) In addition to the interest payable under subsection 1, where a corporation paid tax for a fiscal year under subsection 3 of section 74 and the tax payable for the fiscal year is \$81 or more, it shall forthwith after assessment pay an amount

equal to 3 per cent of the tax payable by the corporation for the fiscal year.

(4) The interest payable under subsection 2 and the ^{Interest on unpaid tax} penalty interest payable under subsection 6 shall be computed by reference to the tax payable by a corporation for,

(a) the last preceding fiscal year; or

(b) the fiscal year in respect of which the tax is payable,

whichever is less, and where a corporation has paid tax for a fiscal year under subsection 3 of section 74 and where the tax payable by the corporation,

(c) for the last preceding fiscal year; and

(d) for the fiscal year in respect of which the tax is payable,

are both \$81 or more, the corporation shall be deemed to have been in default of payment of tax as required by subsection 2 of section 74 and shall pay interest and penalty interest in respect thereof as required by subsections 2 and 6 and in such case subsection 3 does not apply.

(5) Where a corporation is entitled to deduct under paragraph 3 of subsection 1 of section 39 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under paragraph 3 of subsection 1 of section 39 in respect of that loss. 1957, c. 17, s. 70 (1-5). ^{Effect of carry-back of loss}

(6) In addition to the interest payable under subsections 1 ^{Penalty interest} and 2, every corporation required by section 74 to pay a part or instalment or the whole of the tax for a fiscal year on or before the day on or before which a return under subsection 1 of section 71 is required to be delivered for that fiscal year shall pay penalty interest on any part or instalment or the whole of such tax that remains unpaid more than two months after the day such part or instalment or such whole was

required to be paid by section 74 at the rate of one-quarter of 1 per cent per month or part thereof calculated with respect to each part or instalment or the whole of such tax, as the case may be, from two months following the date on or before which each part or instalment or the whole of such tax, as the case may be, is required to be paid by section 74 until the date of payment. 1959, c. 20, s. 23.

DIVISION C—ASSESSMENTS

Assessment
of returns

76.—(1) The Treasurer shall with all due despatch examine each return delivered under section 71 and assess the tax for the fiscal year and the interest and penalties if any payable.

Notice of
assessment

(2) After examination of a return, the Treasurer shall send by registered mail a notice of assessment to the corporation that delivered the return.

Continuation
of liability
for tax

(3) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Re-
assessment

(4) The Treasurer may at any time assess tax, interest or penalties and may at any time re-assess or make additional assessments.

Idem

(5) Where a corporation has delivered the return required by section 71 for a fiscal year and, within one year from the day on or before it was required by section 71 to deliver a return for that fiscal year, has filed an amended return for the fiscal year claiming a deduction from income under paragraph 3 of subsection 1 of section 39 in respect of a business loss sustained in the fiscal year immediately following that fiscal year, the Treasurer shall re-assess the tax payable by the corporation for that fiscal year.

Treasurer
not bound
by returns

(6) The Treasurer is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act.

Assessment
valid and
binding

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a re-assessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. 1957, c. 17, s. 71.

77.—(1) Every corporation shall within thirty days from ^{Payment} the day of mailing of the notice of assessment pay any part ^{of assessment} of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. 1957, c. 17, s. 72.

(2) Where in the opinion of the Treasurer a corporation is ^{Idem} attempting to avoid payment of a tax imposed by this Act or where the Treasurer has assessed the tax payable under this Act pursuant to subsection 6 of section 76, he may, notwithstanding subsection 2 of section 76, serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. 1958, c. 16, s. 27.

DIVISION D—REFUNDS OF OVERPAYMENTS

78.—(1) If the return required to be delivered by a cor- ^{Refunds} poration under section 71 for a fiscal year has been delivered within four years from the end of that fiscal year, the Treasurer,

(a) may, upon mailing the notice of assessment for the fiscal year, refund without application therefor any overpayment made on account of the tax payable for the fiscal year; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. 1959, c. 20, s. 24.

(2) Instead of making a refund that might otherwise be ^{Application} made under this section, the Treasurer may, where the ^{to other} corporation is liable or about to become liable to make another ^{taxes} payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action.

(3) Where an amount in respect of an overpayment is ^{Interest on} refunded or applied under this section on other liability, ^{over-} interest at the rate of 3 per cent per annum shall be paid ^{payments} or applied thereon for the period commencing with the latest of,

(a) the day on which the overpayment arose;

(b) the day on or before which the return of the corporation in respect of which the overpayment arose was required by section 71 to be delivered; or

(c) the day on which the return of the corporation in respect of which the overpayment arose was delivered,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

Idem

(4) Where by a decision of the Treasurer under section 79 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 76 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at 6 per cent instead of at 3 per cent.

Interpretation

(5) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a fiscal year minus all amounts payable under this Act or an amount so paid where no amount is so payable.

Effect of carry-back of loss

(6) Where a corporation is entitled to deduct under paragraph 3 of subsection 1 of section 39 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under paragraph 3 of subsection 1 of section 39 in respect of that loss. 1957, c. 17, s. 73 (2-6).

DIVISION E—OBJECTIONS TO ASSESSMENT

Notice of objection

79.—(1) A corporation that objects to an assessment under this Act may within ninety days from the day of mailing of the notice of assessment serve on the Treasurer a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. 1960, c. 14, s. 18.

(2) A notice of objection under this section shall be served ^{Service} by being sent by registered mail addressed to the Comptroller. 1959, c. 20, s. 25.

(3) Upon receipt of the notice of objection, the Treasurer shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or re-assess and he shall thereupon notify the corporation of his action by registered letter. 1957, c. 17, s. 74 (3). ^{Recon-}^{sideration}

DIVISION F—APPEALS

80.—(1) Where a corporation has served notice of objection ^{Appeal} to an assessment under section 79, the corporation may appeal to the Supreme Court to have the assessment vacated or varied after the Treasurer has confirmed or re-assessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 79 that the Treasurer has confirmed the assessment or re-assessed.

(2) An appeal to the Supreme Court shall be instituted ^{Appeals,}^{how} by serving on the Treasurer a notice of appeal in duplicate ^{instituted} in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment. 1957, c. 17, s. 75 (1, 2).

(3) A notice of appeal shall be served upon the Treasurer ^{Notice of} by being sent by registered mail addressed to the Comptroller. ^{appeal} 1959, c. 20, s. 26.

(4) The corporation appealing shall set out in the notice of ^{Statement} appeal a statement of the allegations of fact, the statutory ^{of} provisions and reasons that it intends to submit in supporting ^{allegations} its appeal.

(5) An appeal by a corporation and all proceedings there- ^{Security} under are, upon the expiration of sixty days from the day the ^{for costs} appeal is instituted, null and void unless security for the costs of the appeal has been, within the said period, paid into court in the sum of \$400 or such other sum as the Treasurer requires and, upon an appeal becoming null and void by virtue of this subsection, no other appeal or proceedings shall be instituted in respect of the same decision.

(6) When security has been given under subsection 5, ^{Idem} notice thereof shall be served on the Treasurer specifying the fact and the purpose of the payment. 1957, c. 17, s. 75 (4-6).

Reply to
notice of
appeal

81.—(1) The Treasurer shall with all due despatch serve on the corporation appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Treasurer intends to rely on.

Amendment
of notice
of appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 80 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

Amendment
to reply

(3) The court or a judge may in its or his discretion,

- (a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

Failure to
comply

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 80 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it.

Idem

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. 1957, c. 17, s. 76.

Matter
deemed
action

82.—(1) Upon the filing of the material referred to in sections 80 and 81 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing. 1958, c. 16, s. 28.

Facts not
set out
may be
pleaded

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs.

(3) The court may dispose of the appeal by,

Disposal
of appeal

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Treasurer
for reconsideration and re-assessment.

(4) The Court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or costs by the taxpayer or the Treasurer, as the case may be. 1957, c. 17, s. 77 (2-4).

Court may
order
payment of
tax, etc.

83. Proceedings under this Division shall be held in camera upon request made to the court by the corporation appealing or by the Treasurer. 1957, c. 17, s. 78.

Proceedings
in camera

84. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 82 and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. 1957, c. 17, s. 79.

Supreme
Court
practice
to govern

85. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. 1957, c. 17, s. 80.

Irregularities

PART VI

ADMINISTRATION AND ENFORCEMENT

86.—(1) Any person thereunto authorized by the Treasurer for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or

Investi-
gations

any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Treasurer may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 71 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

(3) The Treasurer may, for any purpose related to the ^{Idem} administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein.

(4) The Treasurer may, for any purpose related to the ^{Idem} administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Office of the Comptroller of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. 1957, c. 17, s. 81 (1-4).

(5) The Treasurer may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. 1960, c. 14, s. 19. ^{Production of evidence to prove tax payable by another corporation}

(6) The Treasurer may, for any purpose related to the ^{Inquiry} administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Office of Comptroller of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act.

(7) Where a book, record or other document has been ^{Copies} seized, examined or produced under this section, the person

by whom it is seized or examined or to whom it is produced or any officer of the Office of Comptroller of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Treasurer or a person thereunto authorized by the Treasurer to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Adminis-
tration
of oaths

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Powers
of inquiry

(10) For the purpose of an inquiry authorized under subsection 6, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner appointed under *The Public Inquiries Act*, 1957, c. 17, s. 81 (5-9).

R.S.O. 1960,
c. 323

Books and
records

87.—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the prescribed manner, at its permanent establishment in Ontario or at such other place as is designated by the Treasurer, in such form and containing such information as will enable the taxes payable under this Act to be determined.

Idem

(2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Treasurer may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required.

Idem

(3) Every corporation required by this section to keep records and books of account shall, until written permission

for their disposal is obtained from the Treasurer, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. 1957, c. 17, s. 82.

88.—(1) Every corporation that has failed to deliver a ^{Offences} return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 for each day of default. 1957, c. 17, s. 83 (1).

(2) Every person who has failed to comply with or contra- ^{Idem} vened section 86 or 87 is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of \$25 for each day during which the default continues. 1957, c. 17, s. 83 (2); 1958, c. 16, s. 29.

89. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who ^{Officers, etc., of corporations} directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1957, c. 17, s. 84.

90.—(1) No person employed in the service of Her Majesty ^{Communi- cation of information} shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act.

(2) Every person who contravenes any provision of this ^{Offence} section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1957, c. 17, s. 85.

(3) Notwithstanding subsection 1, the Treasurer may, for ^{Exception} the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. 1959, c. 20, s. 27.

Collection

Priority
of tax

91.—(1) All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty and are a first lien and charge upon the property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts, but such lien and charge does not apply to any mine as defined in *The Mining Tax Act* until the corporation owning the mine has become liable for the payment of a tax on mining profits under *The Mining Tax Act*.

R.S.O. 1960,
c. 242

Tax and
penalty to
be lien on
property

(2) All taxes, interest, penalties, costs and other amounts payable under this Act by a corporation that owns, operates or uses a railway are a special lien on any property, real or personal, in which the corporation has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of any minister, officer, servant or agent of the Crown, or by want of registration. 1957, c. 17, s. 86.

Garnishment

92.—(1) When the Treasurer has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that corporation in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of

personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become ^{Idem} indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. 1957, c. 17, s. 87.

93.—(1) Upon default of payment by a corporation of any tax, interest or penalty or any of them imposed upon a corporation by this Act, ^{Recovery of tax, interest and penalties}

(a) the Treasurer may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;

(b) the Treasurer may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Treasurer with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Treasurer or of any officer of the Treasury Department. 1957, c. 17, s. 88. ^{Compliance of Treasurer to be proved by affidavit}

94. The use of any of the remedies provided by sections 92 and 93 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for ^{Remedies for recovery of tax and penalty}

the recovery or enforcement of the payment of any tax, interest and penalty or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. 1957, c. 17, s. 89.

Notice to
be given
Treasurer
of sale of
company's
capital
assets

95.—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 2 of section 76, no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Treasurer not less than ten days before the date of the sale.

Penalty

(2) Every person who contravenes the provisions of subsection 1 is liable to a penalty of not less than an amount equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. 1957, c. 17, s. 90.

Compromis-
ing
disputes as
to liability
for taxes

96. If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Treasurer may accept such amount as he deems proper. 1957, c. 17, s. 91.

General
offence

97. Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. 1957, c. 17, s. 92.

Fines
payable to
Treasurer

98. The fines imposed for offences under this Act are payable to the Treasurer. 1957, c. 17, s. 93.

Regulations

99. The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Treasurer or any officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of

them owing by any corporation under this Act and prescribing the fee payable therefor;

- (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
 - (d) prescribing amendments to the provisions of Part III and to the provisions of Part II that relate to the allocation of taxable income and taxable paid-up capital between Ontario and any other jurisdiction, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
 - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- 1957, c. 17, s. 94.

PART VII

TRANSITIONAL PROVISIONS

100.—(1) Notwithstanding section 4, the tax as calculated thereunder shall be reduced in the case of any corporation the fiscal year of which does not coincide with the calendar year but ends in the calendar year 1957 in the proportion of the total tax which the number of days of such fiscal year that are in the calendar year 1956 bears to the total number of days of such fiscal year. Income tax reduced in 1957

(2) Where the amount of the tax imposed by section 4 on a corporation is reduced under subsection 1, the amount of the tax as so reduced is, notwithstanding section 12, the amount of the deduction allowed by section 12. Effect of reduced income tax on sec. 12 1957, c. 17, s. 95.

101. Notwithstanding any provision of this Act and in order that corporations that become taxable under this Act may be dealt with under this Act on the same basis and in the same manner as they will be dealt with under the *Income Tax Act* (Canada) with respect to fiscal years of such corporations ending in 1957 and later fiscal years, the provisions of the *Income Tax Act* (Canada) and every predecessor thereof affecting the determination of taxable income as they have been in force from time to time shall be deemed, for the purposes of this Act, to have been applied in determining the taxable incomes of such corporations for fiscal years thereof ending in calendar years before 1957, at the same time and to the same extent as they were applicable under those Acts. Effect of R.S.C. 1952, c. 148 on this Act 1957, c. 17, s. 97.

CHAPTER 74

The Costs of Distress Act

1. No person making distress for rent or for a penalty and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the distress into effect, shall levy, take or receive any costs in respect of the distress other than those prescribed by the Lieutenant Governor in Council. R.S.O. 1950, c. 73, s. 1.

Tariff of costs where sum demanded does not exceed \$80

2. No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall levy, take or receive any greater or other fees or costs than those prescribed by the Lieutenant Governor in Council. R.S.O. 1950, c. 73, s. 3.

Tariff of costs under chattel mortgage

3. No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and, when sold, no greater sum in all than \$2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1950, c. 73, s. 2.

Costs in respect of seizure of exempted goods

4. No person shall make any charge for anything for which the Lieutenant Governor in Council has prescribed a fee under this Act unless it has been actually done. R.S.O. 1950, c. 73, s. 4.

No charge for anything not done

5. No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall be barred from any action or remedy that he would have had if this Act had not been passed. R.S.O. 1950, c. 73, s. 5.

Right of action not affected

6.—(1) A person who makes a distress shall give a statement in writing signed by him of the demand and of the costs and expenses of the distress to the person on whose goods

Furnishing statement of demand and costs

the distress was made and a person who makes a seizure under a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall give to the person in possession of the goods seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings. R.S.O. 1950, c. 73, s. 6 (1).

Taxation of
costs of
distress

(2) The person whose goods are distrained or seized or the person authorizing the distress or seizure or any other person interested, upon giving two days notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure taxed by the clerk of the county or district court of the county or district in which the distress or seizure was made. R.S.O. 1950, c. 73, s. 6 (2); 1955, c. 10, s. 1.

Furnishing
bill of costs
to clerk for
taxation

(3) The bailiff or person making the distress or seizure shall furnish the clerk with a statement of his costs and expenses for taxation at the time mentioned in the notice or at such other time as the clerk directs, and, in default of his so doing, he is not entitled to any costs or expenses.

Duty of
clerk on
taxation

(4) Upon the taxation the clerk shall, among other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath touching the same, and the person requiring the taxation shall pay the clerk a fee of 25 cents therefor.

Appeal

(5) An appeal may be made from such taxation to a judge of the county or district court. R.S.O. 1950, c. 73, s. 6 (3-5).

Fees and
costs

7. The Lieutenant Governor in Council may prescribe fees and costs payable to persons performing the services mentioned in sections 1 and 2. R.S.O. 1950, c. 73, s. 7.

CHAPTER 75

The County Court Judges' Criminal Courts Act

1.—(1) The judge of every county court or district court or a junior judge thereof, authorized to preside at the sittings of the court of the general sessions of the peace, is constituted a court of record for the trial, out of sessions and without a jury, of any person committed to jail on a charge of being guilty of an offence for which such person may be tried at a court of general sessions of the peace and for which the person so committed consents to be tried out of sessions and without a jury, and the court so constituted has the powers and shall perform the duties respecting the speedy trial of indictable offences mentioned in the *Criminal Code* (Canada). ^{County court judges' criminal courts constituted} 1953-54, c. 51 (Can.)

(2) A court constituted under this Act shall be called the county or district court judges' criminal court of the county or district in which it is held. ^{Style of court} R.S.O. 1950, c. 74, s. 1.

(3) The clerk of the peace for the county or district is the clerk of the court constituted under this Act. ^{Clerk of court} 1956, c. 12, s. 1.

2. Where under the *Criminal Code* (Canada) or *The Summary Convictions Act* an appeal is made to a county or district court, such appeal may be heard by the county or district judge in the court constituted under this Act. ^{Appeals R.S.O. 1960, c. 387} R.S.O. 1950, c. 74, s. 2.

CHAPTER 76

The County Courts Act

1. There shall be in and for every county and district a court of record to be styled, in counties, the "County Court of the County (*or* United Counties) of (*naming the county or united counties*)" and, in districts, the "District Court of the District of (*naming the district*)". R.S.O. 1950, c. 75, s. 1. A court for each county and district

2. Every county court and district court shall be presided over by a judge or a junior judge in accordance with this Act and *The County Judges Act*. 1957, c. 18, s. 1, *amended*. R.S.O. 1960, c. 77. Judges

3. There shall be a clerk of every such court who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure. R.S.O. 1950, c. 75, s. 4. Clerk

4. The clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 75, s. 5. Security

5. The clerk shall keep his office in the court house or, if there is no room available therein, at such place in the county or district as the judge directs. R.S.O. 1950, c. 75, s. 6; 1960, c. 15, s. 1. Place of office

6. Except on Saturdays and holidays, when they shall be closed, county court and district court offices shall be open from 9.30 a.m. until 4.30 p.m. 1952, c. 14, s. 1, *amended*. Office hours

7. The clerk shall tax costs, subject to an appeal to the judge. R.S.O. c. 75, s. 8. Taxation of costs

8. The clerk shall not for fee or reward draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office, for which a fee is not expressly allowed by the tariff. R.S.O. 1950, c. 75, s. 9. Not to draw or advise on documents

9.—(1) The special examiners of the Supreme Court are officers of the county court and district courts, and they possess the like powers in county and district court cases as they possess in cases in the Supreme Court. Special examiners

Idem

(2) The clerk of a county court or district court may act as special examiner in any action in any county court or district court. R.S.O. 1950, c. 75, s. 11, *amended*.

Trial
sittings,
general
rule

10.—(1) Except where otherwise provided, in each year the sittings of the county courts for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in June and December and without a jury on the first Monday in April and October. 1955, c. 11, s. 1, *part*.

Frontenac,
Grey,
Hastings,
Kent,
Ontario,
Peterboro',
Welland

(2) In each year the sittings of the county courts of the counties of Frontenac, Grey, Hastings, Kent, Ontario, Peterborough and Welland for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in June and the third Monday in November and without a jury on the first Monday in April and October. 1955, c. 11, s. 1, *part*; 1958, c. 17, s. 1.

Carleton

(3) In each year the sittings of the county court of the county of Carleton for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in February, April and October and without a jury on the first Monday in June and December.

Essex

(4) In each year the sittings of the county court of the county of Essex for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in April and the third Monday in November and without a jury on the third Monday in February and the first Monday in June and October.

Lincoln

(5) In each year the sittings of the county court of the county of Lincoln for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in May and the first Monday in November and without a jury on the first Monday in April and October.

Middlesex

(6) In each year the sittings of the county court of the county of Middlesex for the trial of issues of fact and assessments of damages shall commence with or without a jury on the second Monday in May and November and without a jury on the first Monday in April and October. 1955, c. 11, s. 1, *part*.

Simcoe

(7) In each year the sittings of the county court of the county of Simcoe for the trial of issue of fact and assessments of damages shall commence with or without a jury on the first Monday in June and the last Monday in November

and without a jury on the first Monday in April and October. 1955, c. 11, s. 1, *part*; 1957, c. 18, s. 3.

(8) In each year the sittings of the county court of the ^{Wentworth} county of Wentworth for the trial of issues of fact and assessments of damages with or without a jury shall commence on the first Monday in December and March and the second Monday in May and September.

(9) In each year the sittings of the county court of the ^{York} county of York for the trial of issues of fact and assessments of damages with or without a jury shall commence on the first Monday in December, March and May and the second Monday in September. 1955, c. 11, s. 1, *part*.

11. The sittings of the district courts for the trial of issues ^{Sittings of} of fact and assessments of damages with or without a jury ^{district} courts shall be held at,

- (a) Bracebridge, commencing on the fourth Monday of May and the second Monday of December;
- (b) Cochrane, commencing on the second Monday of June and the fourth Tuesday of November;
- (c) Fort Frances, commencing on the first Monday of April and October;
- (d) Gore Bay, commencing on the last Monday of May and the third Tuesday of October;
- (e) Kenora, commencing on the first Tuesday of June and the first Tuesday of December;
- (f) North Bay, commencing on the second Monday of June and the fourth Tuesday of November;
- (g) Parry Sound, commencing on the first Monday of June and December;
- (h) Port Arthur, commencing on the first Monday of May and the first Monday of November;
- (i) Sault Ste. Marie, commencing on the last Monday of May and the last Tuesday of November;
- (j) Sudbury, commencing on the first Monday of June and on the fourth Tuesday of November; and
- (k) Haileybury, commencing on the first Monday of June and December. R.S.O. 1950, c. 75, s. 13; 1952, c. 14, s. 3; 1953, c. 23, s. 2.

Postpone-
ment of
sittings

12.—(1) The judge of a county court or district court may postpone the date of any sittings of the court if the postponement does not in his opinion conflict or interfere with the sittings of the Supreme Court in such county or district.

Notice of
postpone-
ment

(2) Where any such sittings is so postponed, notice of the postponement and of the date upon which such sittings is to commence shall be posted in the office of the court clerk not later than sixty days before the commencement of the postponed sittings. 1955, c. 11, s. 1, *part, amended*.

Hour of
sittings

13. The sittings of the county courts and the district courts shall not open earlier than 10 a.m. of the first day of the sittings. R.S.O. 1950, c. 75, s. 14.

Different
opening
day and
hour

14. When it is deemed necessary or expedient in respect of any county or district, the Lieutenant Governor in Council may specify a different opening day for the sittings from those provided in section 10 or 11, or a different opening hour for the sittings from that provided in section 13, in which case the sittings shall be held on the day and at the hour specified. R.S.O. 1950, c. 75, s. 15.

Clerk's fees
for
attendance

15. The clerk is entitled to be paid by the county the sum of \$10 for each day's attendance at all sittings of the county court, both non-jury and jury. R.S.O. 1950, c. 75, s. 16; 1960, c. 15, s. 2.

Additional
sittings

16. Besides the regular sittings, additional sittings for trials without a jury may be held at such time as the judge directs or appoints, and such sittings shall be held as often as is requisite for the due despatch of business. R.S.O. 1950, c. 75, s. 17.

Concurrent
sittings

17. The judge and the junior judges of a county or district court may sit separately and concurrently for the despatch of the business of a sittings. R.S.O. 1950, c. 75, s. 18.

Adjourn-
ment where
judge unable
to attend

18.—(1) Where the judge who is to hold a sittings is unable to hold it at the time appointed, the sheriff or, in his absence, the deputy sheriff shall adjourn the court by proclamation to an hour on the following day to be named by him, and so from day to day until the judge is able to hold the court or until he receives other directions from the judge or from the Attorney General.

Notice to
Attorney
General

(2) The sheriff shall forthwith notify the Attorney General of the adjournment. R.S.O. 1950, c. 75, s. 19.

19.—(1) The county and district courts have jurisdiction ^{Jurisdiction} in,

- (a) actions arising out of contract, expressed or implied, ^{contract} where the sum claimed does not exceed \$1,200;
- (b) personal actions, except actions for criminal con- tort
versation and actions for libel, where the sum claimed
does not exceed \$1,000;
- (c) actions for trespass or injury to land where the ^{injury}
sum claimed does not exceed \$1,000, unless the title ^{to land}
to the land is in question, and in that case also where
the value of the land does not exceed \$1,000 and the
sum claimed does not exceed that amount;
- (d) actions for the obstruction of or interference with a ^{easements}
right-of-way or other easement where the sum
claimed does not exceed \$1,000, unless the title
to the right or easement is in question, and in that
case also where the value of the land over which the
right or easement is claimed does not exceed that
amount;
- (e) actions for the recovery of property, real or personal, ^{recovery}
including actions of replevin and actions of detinue ^{of property}
where the value of the property does not exceed
\$1,000;
- (f) actions for the enforcement by foreclosure or sale ^{mortgages}
or for the redemption of mortgages, charges or liens,
with or without a claim for delivery of possession or
payment or both, where the sum claimed to be due
does not exceed \$1,000;
- (g) partnership actions where the joint stock or capital ^{partnerships}
of the partnership does not exceed in amount or
value \$4,000;
- (h) actions by legatees under a will for the recovery or ^{legacies}
delivery of money or property bequeathed to them
where the legacy does not exceed in value or amount
\$1,000, and the estate of the testator does not exceed
in value \$4,000;
- (i) in all other actions for equitable relief where the ^{equitable}
subject matter involved does not exceed in value or ^{relief}
amount \$1,000; and

insolvency

(j) actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$1,000.

Dispute of
jurisdiction
by
defendant

(2) Where a defendant intends to dispute the jurisdiction of the court on the ground that the action, though otherwise within the proper competence of the court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject matter involved, or, in the cases mentioned in clauses *g* and *h* of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value \$4,000 or the estate of the testator exceeds in value \$4,000, he shall in his appearance or in his statement of defence state that he disputes the jurisdiction of the court and the ground upon which he relies for disputing it, and, in default of his so doing, unless otherwise ordered by the court or a judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question, and in any such action tried or disposed of in a county or district court such court has the right to award all costs of or incidental to such action on the scale of the Supreme Court in the same manner as if such action had been tried or disposed of in the Supreme Court.

Transmission
of papers
at instance
of plaintiff

(3) Where the notice mentioned in subsection 2 is given, the plaintiff may on praecipe require all papers and proceedings in the action to be transmitted to the proper office of the Supreme Court in the county or district in which the action was brought, and it is the duty of the clerk of the county or district court forthwith to transmit the same to such office.

Transfer
of action

(4) When the papers and proceedings so transmitted are received at the proper office of the Supreme Court, the action is *ipso facto* transferred to the Supreme Court.

Transfer of
papers at
instance of
defendant

(5) Where the plaintiff does not exercise the right conferred by subsection 3, the defendant may, after the expiration of ten days from the entry of appearance if he has given notice that he disputes the jurisdiction of the court on entering his appearance, or after the expiration of ten days from the filing of his statement of defence if he has given such notice in his statement of defence, apply to a judge of the Supreme Court for an order transferring the action to that court.

Terms of
order of
transfer

(6) Where the court or a judge makes an order under subsection 2 allowing the defendant to question the jurisdiction of the court, the court or judge may direct the action

to be transferred to the Supreme Court upon such terms as to costs and otherwise as is deemed just.

(7) Where an action is transferred to the Supreme Court under this section, if the plaintiff is awarded costs, unless otherwise ordered by the court or a judge, the costs shall after the date of the transfer be taxed according to the scale of the Supreme Court, whether or not the action is in fact within the proper competence of the county or district court. R.S.O. 1950, c. 75, s. 20.

Scale of
costs in
action
transferred

20.—(1) Where the defendant pleads a set-off or counterclaim, either party, within six days after the plaintiff has delivered his reply to the defence of set-off or his defence to the counterclaim, may apply to a judge of the Supreme Court for an order transferring the action and counterclaim to the Supreme Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the court.

Where set-off
or counter-
claim is
beyond
jurisdiction

(2) The judge, if satisfied that the set-off or counterclaim involves matter that exceeds the jurisdiction of the court, may order the transfer upon such terms as to costs and otherwise as he deems just.

Judge's order
transferring

(3) If no such application is made within the time limited or if an application so made has been refused, the jurisdiction of the court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. R.S.O. 1950, c. 75, s. 21.

Jurisdiction
established
where no
order of
transfer
made

21. Where an action has been transferred to the Supreme Court or to another county or district court under this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the court into which it has been transferred. R.S.O. 1950, c. 75, s. 22.

Conse-
quences of
transfer

22. Where it appears in an action brought in a county or district court that such court has not cognizance thereof, but that the court of some other county or district has jurisdiction to try it, the judge before whom it is pending may, at any time before or during the trial thereof, order it to be transferred to such other county or district court upon such terms as to costs and otherwise as he deems just. R.S.O. 1950, c. 75, s. 23.

Transfer
of
action to
court
having
jurisdiction

23. Prohibition does not lie in respect of an action or counterclaim that may be transferred under this Act to the Supreme Court, or from one county or district court into another county or district court. R.S.O. 1950, c. 75, s. 24.

Prohibition
not to lie

Abandonment of so much of claim as is in excess of jurisdiction

24.—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the court, he may, by writing signed by him and filed, upon such terms as the judge deems proper as to costs and otherwise, abandon the excess, and in such case the plaintiff shall forfeit such excess and is not entitled to recover it in any other action.

Idem

(2) A defendant has the like right in respect of his set-off or counterclaim. R.S.O. 1950, c. 75, s. 25.

Relief that may be granted

25. The court has, as regards all causes of action within its jurisdiction, power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, but does not have power to remove a trustee or to appoint a new trustee under *The Trustee Act*, and shall give such and the like effect to every ground of defence or counterclaim, equitable or legal, by the same mode of procedure and in as full and ample a manner as might and ought to be done in the like case by the Supreme Court. R.S.O. 1950, c. 75, s. 26.

R.S.O. 1960, c. 408

In what cases and on what conditions causes are removable

26. Except in the cases mentioned in subsections 3, 5 and 6 of section 19 and in section 20, no action shall be removed by order of *certiorari* or otherwise into the Supreme Court unless the debt or damages claimed amount to upwards of \$100, and then only on affidavit and by leave of a judge of the Supreme Court, if it appears to the judge fit to be tried in the Supreme Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he deems just. R.S.O. 1950, c. 75, s. 27.

Venue for certain actions

27.—(1) Except by consent of the parties or unless the place of trial is changed, actions under clauses *c* and *d* of subsection 1 of section 19 shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause *g* of that section shall be brought and tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause *h* of subsection 1 of that section shall be brought and tried in the court of the county or district where letters probate or of administration have issued or where the deceased resided at the time of his death.

Actions for the recovery of real property

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the real property sought to be recovered is situate. R.S.O. 1950, c. 75, s. 28.

28. An action by or against a judge shall not be brought in the court of which he is judge, but shall be brought in the court of a county or district adjoining that in which he resides. R.S.O. 1950, c. 75, s. 29. Where action against judge

29. Subject to *The Judicature Act* and to the rules of court, the practice and procedure of the Supreme Court apply to the county and district courts. R.S.O. 1950, c. 75, s. 30. Procedure R.S.O. 1960, c. 197

30. Where the plaintiff fails to recover judgment by reason that the court has not jurisdiction, the court nevertheless has jurisdiction over the costs of the action or other proceeding and may order by and to whom they shall be paid. R.S.O. 1950, c. 75, s. 31. Costs where action fails for want of jurisdiction

31. Every county and district court has the like power as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and they have the like force and effect as writs and process issued out of the Supreme Court. R.S.O. 1950, c. 75, s. 32. Power to enforce judgments and orders

32. Every county and district court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$100 nor shall the imprisonment exceed six months. R.S.O. 1950, c. 75, s. 33. Contempt of court

33.—(1) Where it is proper to direct a reference, it may be made to any officer to whom a reference may be directed by the Supreme Court or to the clerk of the court. References: generally

(2) Where the judge of the court is local master, the reference may be made to himself, but no fees shall be charged by him on such reference. to judge

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party or solicitor and client, shall be according to the county court tariff. R.S.O. 1950, c. 75, s. 34. fees and costs

34.—(1) In an action in a county or district court the judge has the same powers with regard to the making of an order of reference as may be exercised by a judge of the Supreme Court in an action therein. Powers of judge as to reference

(2) An appeal, in like manner and within the same time as in like cases in actions in the Supreme Court, lies from the report on the reference to the judge of the county or district Appeal from referee

court in chambers, who has upon the appeal the same power as may be exercised by a judge in like cases in the Supreme Court.

Appeal to
Court of
Appeal

(3) An appeal lies from any order, judgment or decision of the judge of a county or district court, and from the report upon a reference made under subsection 2 of section 33 to the Court of Appeal, and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under section 36.

Except
where the
Crown is
a party

(4) Nothing in this section empowers the judge of a county or district court to refer any proceeding to which Her Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of Her Majesty. R.S.O. 1950, c. 75, s. 35.

Rehearing

35.—(1) Where the judge before whom an action is tried, either with or without a jury, dies before giving judgment, or having reserved his judgment after having heard the evidence does not deliver judgment within six months thereafter, either party may thereupon set the action down to be reheard by such judge of the Supreme Court or of a county court as is designated by a judge of the Supreme Court sitting in weekly court.

Further
evidence

(2) No further evidence shall be received upon such rehearing unless by leave of the court.

Notice

(3) Notice of the intended rehearing shall be served on all parties to the action and a copy thereof with proof of service filed in the office of the county court clerk at least fourteen days before the setting down of the action for rehearing.

Time

(4) The action shall be so set down at least seven days before being reheard.

Rehearing
at weekly
court

(5) The action shall be set down to be reheard at the first sittings of weekly court at Osgoode Hall, Toronto, after the expiration of twenty-one days from service of notice of intention to rehear.

Transfer of
papers

(6) The party giving notice of rehearing shall at the time of filing notice of intended rehearing praecipe to the proper officer at Osgoode Hall, Toronto, the record, exhibits and all other papers used at the trial together with a copy of the evidence taken at the trial, and it is the duty of the clerk of the county court upon receiving the praecipe and being paid the

proper charges for postage and stenographers' fees to forward such papers and evidence duly certifying thereto within ten days thereafter.

(7) No proceedings in the action shall thereafter be taken in the county court without the order of a judge of the Supreme Court after notice. ^{Further proceedings}

(8) Upon such rehearing, the evidence, exhibits and papers used at the trial shall be read and after argument by counsel the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the county court clerk in accordance with his findings. ^{Judgment on rehearing}

(9) The costs of the rehearing shall be fixed by the judge presiding at the rehearing, who shall also direct by whom they are to be paid. ^{Costs of rehearing}

(10) An appeal lies from such judgment or finding in the same manner and on the same terms as if the judgment had been pronounced at a trial in the county court. R.S.O. 1950, c. 75, s. 36. ^{Appeal}

36. Any party to a cause or matter may appeal to the Court of Appeal from any judgment directed to be entered at or after the trial or from a refusal to enter a judgment. R.S.O. 1950, c. 75, s. 37 (1). ^{Appeal to Court of Appeal}

37. Where a party does not appear at the trial, a motion for a new trial may be made before the judge, but in all other cases a motion for a new trial shall be made before the Court of Appeal. R.S.O. 1950, c. 75, s. 37 (2). ^{Motion for new trial}

38.—(1) An appeal lies to the Court of Appeal at the instance of any party to a cause or matter from, ^{Appeal from decision of judge}

- (a) every decision or order of a judge in court or chambers under any of the powers conferred upon him by the rules of court or by a statute, unless provision is made therein to the contrary;
- (b) every decision or order in a cause or matter disposing of any right or claim;
- (c) any decision or order of a judge, whether pronounced or made at the trial, or on appeal from taxation or otherwise, that has the effect of depriving the plaintiff of county court costs on the ground that his action is of the proper competence of the division

court, or of entitling him to county court costs on the ground that the action is not of the proper competence of the division court.

Where
section not
applicable

(2) This section does not apply to an order or decision that is not final in its nature but is merely interlocutory or where jurisdiction is given to the judge as *persona designata*. R.S.O. 1950, c. 75, s. 38.

Trans-
mission of
pleadings,
etc.

39.—(1) The clerk shall, at the request of the appellant, transmit to the proper officer of the Supreme Court the pleadings in the cause and all motions or orders made, granted or refused therein together with the judgment or decision and all other papers in the cause affecting the question raised by the appeal.

Evidence,
etc., to be
certified

(2) The evidence and all objections and exceptions thereto, together with the judge's charge to the jury where the trial has been held with a jury, shall be certified under the hand of the stenographic reporter who was present at the trial. R.S.O. 1950, c. 75, s. 39.

Staying
proceedings
on appeal

40. Subject to section 41, the judge of the county or district court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he deems just. R.S.O. 1950, c. 75, s. 40.

Setting
down
appeals

41. The appeal shall be made within the time and in the manner prescribed by the rules of court. R.S.O. 1950, c. 75, s. 41.

Powers to
amend and
receive
further
evidence

42.—(1) The Court of Appeal has all the powers and duties, as to amendment and otherwise, of the judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the court or as may be directed.

Further
evidence

(2) Such further evidence may be given without special leave as to matters that have occurred after the date of the judgment, order or decision complained of.

Idem

(3) Except as provided by subsection 2, upon an appeal from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only, and not without the special leave of the court. R.S.O. 1950, c. 75, s. 42.

43.—(1) On an appeal the Court of Appeal may set aside the judgment and direct any other judgment to be entered or may direct a new trial to be had, and may make such other order as to costs and otherwise as appears just.

(2) The decision of the Court of Appeal shall be certified by the registrar of the court to the clerk of the court with whom the judgment or order appealed from was entered, who shall thereupon cause the decision to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon as if the decision has been given in the court below. R.S.O. 1950, c. 75, s. 43.

44. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may,

- (a) make rules for regulating the practice and procedure in the county and district courts;
 - (b) make rules and regulations regulating and fixing the fees payable to the Crown in respect of proceedings in such courts;
 - (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
 - (d) prescribe forms and provide for their use. R.S.O. 1950, c. 75, s. 44, *amended*.
-

CHAPTER 77

The County Judges Act

1. A judge may be appointed for the county court of ^{Judges} each of the counties and for the district court of each of the provisional judicial districts. 1958, c. 18, s. 1, *part*.

2.—(1) A junior judge may be appointed for the county ^{Junior judges} court of each of the counties of Carleton, Essex, Middlesex and Welland and for the district court of each of the districts of Sudbury and Thunder Bay.

(2) Two junior judges may be appointed for the county ^{Idem} court of the county of Wentworth.

(3) Eight junior judges may be appointed for the county ^{Idem} court of the county of York. 1958, c. 18, s. 1, *part*.

3.—(1) In addition to the judges mentioned in section 1 ^{Additional judges} and the junior judges mentioned in section 2, one or more judges or junior judges, not exceeding six in number, may be appointed,

(a) for the county or district court of any county or district that the Lieutenant Governor in Council designates; or

(b) for the county and district courts of the counties and districts of Ontario.

(2) A judge or junior judge appointed for the county and ^{Residence} district courts of the counties and districts of Ontario shall reside in the county court district or district court district that is designated by the Lieutenant Governor in Council. 1958, c. 18, s. 2.

4.—(1) A judge or junior judge may perform any judicial ^{Extended jurisdiction} or other function in the county or district court of any county or district in the same manner and to the same effect as a judge of that court.

(2) The judges and junior judges, respectively, have rank ^{Rank and precedence} and precedence among themselves according to seniority of appointment. 1958, c. 18, s. 3.

Arrangement
of courts

5. In the county court of the county of York, all such arrangements as may be necessary or proper for the holding of any of the courts, or the transaction of business, or the arrangement from time to time for judges to hold such courts, or to transact such business, shall be made by the judge and junior judges of the county court of the county of York with power in the judge of the county court of the county of York to make such readjustment or reassignment as may be necessary from time to time. R.S.O. 1950, c. 76, s. 5 (2).

Powers of
junior
judges

6. Where a power or authority is by this Act or otherwise conferred upon or may be exercised by the judge of a county or district court, whether with reference to the holding of any of the courts of the county or district that he may hold, or to the business of any of such courts, or to any other matter or thing over which he has jurisdiction, the like power and authority are possessed and may be exercised by a junior judge, subject to the general regulation and supervision of the judge. R.S.O. 1950, c. 76, s. 6.

Not to
practise

7. A judge or junior judge shall not, directly or indirectly, practise as counsel or solicitor or act as a notary public or conveyancer. R.S.O. 1950, c. 76, s. 8, *amended*.

Illness
or death
of judge

8. Where a judge who has appointed a time and place for the hearing of an application, proceeding or matter becomes ill or dies, or for any other reason is unable to attend at the time and place appointed, the application, proceeding or matter may be heard by another judge of the same county or district court or by a judge who may for the time being be acting as a judge of such court. R.S.O. 1950, c. 76, s. 9.

Allowances

9.—(1) There shall be paid,

(a) to the senior judge of the county court of the county of York, an allowance at the rate of \$2,500 per annum; and

(b) to the judge of every other county and district court and to every junior judge of a county or district court, an allowance at the rate of \$1,500 per annum. R.S.O. 1950, c. 76, s. 10 (1).

Additional
allowance
to
surrogate
judge

(2) In addition to the allowance provided in subsection 1, there shall be paid to the judge of a county or district court of a county or district in which there is only one judge and he is the judge of the surrogate court an allowance of 40 per cent of the judge's fees under *The Surrogate Courts Act*, but in no case shall such allowance exceed \$2,000 in any year. 1960, c. 16, s. 1.

R.S.O. 1960,
c. 388

(3) Where in any county or district there is more than one judge one of whom has been appointed judge of the surrogate court of the county or district, the judge's fees under *The Surrogate Courts Act* shall be allocated equally between or among the judge and the junior judge or judges and the judge and each junior judge shall receive an allowance in accordance with subsection 2 calculated on such allocation. 1957, c. 19, s. 3.

(4) Subsections 2 and 3 do not apply to any judge or junior judge of a county or district court who held office on the 3rd day of April, 1957, but subsections 2 and 3 of section 10 of *The County Judges Act*, being chapter 76 of the Revised Statutes of Ontario, 1950, apply to such judges as though such subsections had not been repealed. 1957, c. 19, s. 5, *amended*.

(5) The allowances under subsection 1 are payable monthly and the allowances under subsections 2 and 3 are payable annually after the end of the year out of the Consolidated Revenue Fund. R.S.O. 1950, c. 76, s. 10 (4).

(6) Such sums are in lieu of all fees and allowances payable to the judge of a county or district court for any services performed by him under any Act of the Legislature, including fees as judge of the surrogate court and as local master of the Supreme Court, and where such fees are payable by the parties to a proceeding before the judge, or upon an order or certificate made or given by him, they shall form part of the Consolidated Revenue Fund, and, except as hereinafter provided, a judge of a county or district court is not entitled to receive any fees whatever under any Act of the Legislature.

(7) Nothing in this section applies to or affects the payment of any allowance or fees to a judge of a county or district court with respect to any office that may be lawfully held by him in addition to his office as judge to which an annual allowance or salary is attached or in the performance of his duties as an arbitrator or referee under any statute designating him by his name of office as an arbitrator or referee. R.S.O. 1950, c. 76, s. 10 (5, 6), *amended*.

(8) Nothing in this section affects or prevents the payment to a judge of a county or district court of his travelling or other expenses when called upon to perform any duty outside the county or district town of the county or district. R.S.O. 1950, c. 76, s. 10 (7).

10. The judge or a junior judge of the county or district court or a county or district forming a court district or a part

thereof, before entering upon the duties of his office, shall take and subscribe the following oath before the judge who, in point of time, is senior in appointment to office in the court district, or, where such judge is unable to officiate because of illness or otherwise, before a judge designated for the purpose by the Lieutenant Governor in Council:

I,, do swear that I will, truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of judge of the..... Court of the.....of..... So help me God.

1958, c. 18, s. 5.

Simul-
taneous
sittings

11. Where there is more than one judge available in a county or district, the county or district court, the court of general sessions of the peace and the division courts may sit at the same time and the business in them may be proceeded with simultaneously. R.S.O. 1950, c. 76, s. 15, *amended*.

Authoriza-
tion by
Lieutenant
Governor
in Council

12. The Lieutenant Governor in Council may empower the judge or a junior judge of a county or district court to transact at such place out of his county or district to be named in the order in council, as is deemed proper, all such business depending in his court as may be transacted in chambers where the solicitors for all parties reside in the place so named, or with the consent of the solicitors for all parties. R.S.O. 1950, c. 76, s. 17.

Shorthand
writers,
appoint-
ment

13.—(1) The Lieutenant Governor in Council may appoint one or more shorthand writers for the local courts of any county or provisional judicial district, and, where more than one is appointed for a county or provisional judicial district, the Lieutenant Governor in Council may designate one of them as the senior shorthand writer.

Direction

(2) Every shorthand writer shall be under the direction of the judge or, in his absence, of the junior judge or judges of the county or district for the local court of which he is appointed, and, where a senior shorthand writer is designated, the other shorthand writer or writers shall also be subject to the direction of the senior shorthand writer.

Remunera-
tion

(3) Every shorthand writer is entitled to such remuneration as the Lieutenant Governor in Council prescribes.

Fees for
transcripts

(4) Every shorthand writer who is appointed at a salary is nevertheless entitled to take for his own use fees for transcriptions of shorthand notes unless he is expressly prohibited from so doing by the terms of his appointment.

(5) Where a shorthand writer is appointed at a salary ^{Idem} and is expressly prohibited from taking fees for his own use for transcriptions of shorthand notes, he shall collect the fees for such transcriptions and pay them over to the treasurer of the county.

(6) The Lieutenant Governor in Council may prescribe ^{Fees} fees for shorthand writers.

(7) Every shorthand writer appointed at a salary for the ^{Status} local courts of a county shall be deemed an employee of the county for the purposes of *The Workmen's Compensation Act* ^{R.S.O. 1960, c. 437} and of any municipal plan of superannuation, group insurance or sick leave credit. 1951, c. 16, s. 2, *part*.

(8) The local municipalities not forming part of a county <sup>Contri-
bution</sup> for municipal purposes shall pay to the county such proper proportion of the cost of the shorthand writer or writers appointed for the local courts of the county as is agreed upon or, failing agreement, as is determined by arbitration. 1951, c. 16, s. 2, *part*; 1955, c. 12, s. 3.

(9) For the purposes of an arbitration under subsection 8, ^{Arbitration} the judge of the county court shall be sole arbitrator unless he requests a junior judge of the county court or the judge or a junior judge of some other county court to act for him, in which case such other judge shall be sole arbitrator.

(10) The provisions of *The Municipal Arbitrations Act* as ^{Procedure} to procedure and appeals apply to arbitrations held and awards ^{R.S.O. 1960, c. 250} made under subsection 8. 1951, c. 16, s. 2, *part*.

14. If the council of a county by resolution requests the ^{Interpreters} appointment of an official interpreter to act at the courts held in that county, an appointment may be made in the same manner and subject to the same terms and conditions as provided with respect to shorthand writers by section 13, which shall apply as nearly as may be to official interpreters. R.S.O. 1950, c. 76, s. 19.

15.—(1) The Lieutenant Governor in Council may order <sup>County
court
districts</sup> that a county or two or more counties shall form a county court district for the purposes of this Act or that a provisional judicial district or two or more provisional judicial districts shall form a district court district for the purposes of this Act. R.S.O. 1950, c. 76, s. 20; 1955, c. 12, s. 4 (1).

(2) When a district court district is formed, sections 16 to 22 <sup>Application
of ss. 16 to 22</sup> apply *mutatis mutandis*. 1955, c. 12, s. 4 (2).

Holding
courts in
districts

16. After the erection of a court district, the several courts shall be held by the judges, including the junior judges in the district, in rotation so far as is practicable in view of the respective general length of service and strength of the other judges, and the special duties assigned to junior judges as well as other offices, if any, held by any of the judges, and all other circumstances. R.S.O. 1950, c. 76, s. 21, *amended*.

Annual
meeting for
assignment
of duties

17.—(1) The judges in each court district shall meet together at least once in every year, and the judges present, or a majority of them, shall arrange and appoint which of the courts in the district will be held by each of the judges of the district throughout the ensuing year, and what other judicial work each will discharge throughout the year.

How
convened

(2) The judge in a court district who, in point of time, is senior in appointment to office shall convene the meetings referred to in this section, and, unless all the judges present at any such meeting unanimously agree upon a different mode of dividing the work, it shall be divided strictly in conformity with section 16, and no judge, except by reason of illness or other unavoidable cause, shall be excused from performing the judicial work assigned to him at any such meeting. R.S.O. 1950, c. 76, s. 22.

Judges to
perform
duties
assigned

18. Every judge to whom duty is assigned at such meeting shall perform the duty so assigned to him, and if he is, by reason of illness or other cause, unable to perform it, he shall so far as possible arrange to have it performed by another person competent by law in that behalf. R.S.O. 1950, c. 76, s. 23.

Absence or
illness of
judge

19. Where by reason of the absence or illness of a judge or from any other cause it is impossible for the arrangements made at such meeting to be carried out with respect to any duty belonging to a judge, the judges of the district shall see that the deficiency is supplied by some other person competent by law in that behalf, and shall forthwith communicate what they do therein to the Provincial Secretary. R.S.O. 1950, c. 76, s. 24.

Judge to
have juris-
diction
throughout
court
district

20. A judge may exercise and perform in any part of his court district any power or duty that he may exercise or perform in the county or district for which he was appointed. R.S.O. 1950, c. 76, s. 25, *amended*.

21. Where a vacancy occurs in the office of the judge of the county court in a county in a court district and the Lieutenant Governor declares that, owing to the lack of sufficient business, it is unnecessary that the vacancy be filled, the remaining judges in the court district shall arrange for the performance of the duties of the judge of the county court of the county in which the vacancy occurs by one of themselves or by some other person competent by law in that behalf, and every judge or other person so acting has the like powers and shall perform the like duties as a judge or other person competent by law in that behalf appointed or authorized for that purpose may exercise and perform under any statute of Ontario in the county in which the vacancy has occurred. R.S.O. 1950, c. 76, s. 26.

22. Where there is a city having a population of 100,000 or more in a court district and it appears to the council of the city that one or more stenographers are needed to do clerical work other than court reporting for the judges, or any of them, the council may appoint one or more qualified persons for such purpose, whose salary shall be fixed and paid in monthly instalments by the council, provided that the council of the city may arrange with the council or councils of the county or counties in the court district, or any of them, for the partial payment or reimbursement of the salary on such terms as are agreed upon. R.S.O. 1950, c. 76, s. 27.

CHAPTER 78

The Creditors' Relief Act

1. In this Act,

Interpre-
tation

- (a) "county" includes a provisional judicial district;
- (b) "county court" includes a district court;
- (c) "execution" includes a writ of *fiery facias* and every subsequent writ for giving effect thereto;
- (d) "judge" means a judge of the county court of the county the sheriff of which is required to take the proceedings directed by this Act;
- (e) "sheriff" includes any officer to whom an execution is directed. R.S.O. 1950, c. 78, s. 1.

2. Where a judge is disqualified to act in a matter arising under this Act, a judge of the county court of an adjoining county has jurisdiction to act in his place. R.S.O. 1950, c. 78, s. 2.

Where
judge is
disqualified

3. Subject to this Act, there is no priority among creditors by execution from the Supreme Court or from a county court. R.S.O. 1950, c. 78, s. 3.

No priority
among
execution
creditors

4.—(1) A creditor who attaches a debt shall be deemed to do so for the benefit of all creditors of his debtor as well as for himself.

Attachment
to be for
benefit of
all creditors

(2) Payment of such debt shall be made to the sheriff of the county in which the garnishee resides, or, if there are more garnishees than one in respect of the same debt, then to the sheriff of the county in which any one of them resides.

To whom
to be paid

(3) This section does not apply to debts attached by proceedings in a division court unless before the amount recovered by the garnishment proceedings is actually received by the creditor an execution against the property of the debtor is placed in the hands of the sheriff of such county.

Attachments
in division
courts

Money paid to sheriff who has no execution in hand

(4) Where money is paid to a sheriff in whose hands there is no execution against the property of the debtor and there is in the hands of the sheriff of another county an execution against the property of the debtor, the court or a judge on the application of the last-mentioned sheriff or of a creditor or of the debtor may direct, on such terms as to costs and otherwise as seem just, that such money be paid over to the last-mentioned sheriff to be distributed by him as if such money had then been paid to him by the garnishee, and the court or judge shall fix the compensation to be paid to the sheriff by whom the money was received from the garnishee for his services.

Money paid into division court

(5) Where money that a sheriff is entitled to receive under this section is paid into a division court, the sheriff is entitled to demand and receive it from the clerk of the court for the purpose of distributing it under this Act.

Right of attaching creditor to share with other creditors

(6) An attaching creditor is entitled to share in respect of his claim against the debtor in any distribution made under this Act, but his share shall not exceed the amount recovered by his garnishment proceedings unless he has in due time placed an execution or a certificate given under this Act in the sheriff's hands.

Sheriff's poundage

(7) The sheriff is entitled to poundage upon money received and distributed by him under this section at the rate of $1\frac{1}{4}$ per cent and no more.

Sheriff's right to recover attached debt

(8) If an attached debt that the sheriff is entitled to receive or any part of it is received by the attaching creditor, the sheriff may recover it from him; but a clerk of a division court is not liable for making payment to the creditor unless at the time of payment he has notice that there is an execution against the property of the debtor in the sheriff's hands. R.S.O. 1950, c. 78, s. 4.

Entries by sheriff after levy

5.—(1) Where a sheriff levies money under an execution against the property of a debtor or receives money in respect of a debt that has been attached or sold under section 15 of *The Absconding Debtors Act*, he shall forthwith make an entry (Form 1) in a book to be kept in his office, and such book shall be open to the public for inspection without charge.

R.S.O. 1960, c. 1

Distribution

(2) The money shall thereafter be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Act were in the sheriff's hands at the time of the levy or receipt of the money or who deliver their executions or certificates to the sheriff

within one month from the entry, subject to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose execution the amount was made, and subject also to subsection 6 of section 4, and, as respects money recovered by garnishment proceedings, subject to the payment thereof to the creditor who obtained the attaching order of his costs of such proceedings.

(3) Subsection 2 does not apply to money received by a sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader proceeding in favour of the creditors the money, whether in the sheriff's hands or in court pending such determination, shall, subject to subsection 4, be distributed by the sheriff among the creditors contesting the adverse claim.

(4) Where proceedings are taken by a sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* in proportion to the amount of their executions or certificates to the expense of contesting any adverse claim are entitled to share in any benefit that may be derived from the contestation of such claim so far as is necessary to satisfy their executions or certificates.

(5) The judge making the interpleader order may direct that one creditor has the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client, are a first charge upon the money or goods that may be found by the proceedings to be applicable upon the executions or certificates.

(6) Upon an interpleader application the judge may allow to other creditors who desire to take part in the contest a reasonable time in which to place their executions or certificates in the sheriff's hands upon such terms as to costs and otherwise as are deemed just.

(7) Where the sheriff, subsequent to the entry but within the month, levies a further amount from the property of a debtor or receives money in respect of a debt that has been attached or sold, it shall be dealt with as if it had been levied or received before the entry.

(8) If, after the month, a further amount is so levied or received, a new notice shall be entered and the distribution to be made of the amount so levied or received and of any further amount levied or received within a month of the

entry of the last-mentioned entry shall be governed by the entry thereof in accordance with the foregoing provisions of this section, and so from time to time as further amounts are so levied or received.

Share in
subsequent
distribution

(9) Where a creditor has shared in a previous distribution, he is entitled to share in a subsequent one only in respect of the amount remaining due to him after crediting what he has received in a previous distribution.

Equality
of all
executions

(10) In distributing money under this section creditors who have executions against goods or lands only or against goods and lands are entitled to share rateably with all others and money realized under execution against either goods or lands or against both, or under an attaching order.

Which
creditors
may share

(11) Subject to subsection 6 of section 4, a creditor is not entitled to share in the distribution unless by the delivery of an execution or otherwise under this Act he has established a claim against the debtor either alone or jointly with some other person.

Money
realized
under
R.S.O. 1960,
c. 1

(12) Where money in the hands of the sheriff for distribution is the proceeds of the property of an absconding debtor against whom an order of attachment has been issued under *The Absconding Debtors Act*, the period mentioned in subsection 2 is two months, and subsection 8 shall be read as if the words "the month" in the first line were "the two months". R.S.O. 1950, c. 78, s. 5.

Proceedings
where debtor
allows
execution
to remain
unsatisfied

6.—(1) If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff to remain unsatisfied in the sheriff's hands until within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors or claimants in respect of debts that are overdue.

When sale
occurs

(2) When a sale has taken place under an execution, the proceedings hereinafter authorized may be taken by any creditor of the execution debtor even though his claim is not then due. R.S.O. 1950, c. 78, s. 6.

Affidavit of
creditor

7.—(1) An affidavit (Form 2) of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts.

(2) Before or simultaneously with the filing with the clerk of the county court of the affidavit, there shall be filed with him a certificate of the sheriff, or an affidavit, showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act.

(3) The claimant shall serve on the debtor one of the duplicates and a notice (Form 3).

(4) Where the affidavit and notice are to be served out of Ontario, the judge shall by order fix the time after which the next step may be taken by the claimant as hereinafter provided. R.S.O. 1950, c. 78, s. 7.

8.—(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon a solicitor in Ontario, whose name and address shall be given, or by mailing the claims to an address stated in the notice.

(2) The sheriff shall thereupon enter the notice in the book mentioned in subsection 1 of section 5, and, so long as any execution that was in the sheriff's hands at the time the notice was given remains in his hands, shall repeat such entry immediately below any entry (Form 1) made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked".

(3) So long as the notice is not revoked, the affidavit of claim and notice (Form 3) may, where a solicitor is named, be served upon an execution debtor by serving it upon the solicitor, or, if mailing is required, then by sending it by registered mail to the address in the notice given by the execution debtor.

(4) Where the notice (Form 3) served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon the claimant, or does not give the name and address of some solicitor in Ontario who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by sending it by registered mail addressed to the claimant at the county town.

(5) The claimant shall file with the clerk of the county court of the county, the sheriff of which has the execution, one of the duplicate affidavits of claim and a copy of the notice with an affidavit of service thereof (Form 4).

Service
generally

(6) The affidavit and the notice shall, where practicable, be personally served upon the debtor; but, if it is made to appear to the judge that the claimant is unable to effect prompt personal service, the judge may order substitutional or other service, or may direct some act to be done that shall be deemed sufficient service. R.S.O. 1950, c. 78, s. 8.

Certificate
where claim
not disputed

9.—(1) Where the claim is not contested in the manner hereinafter mentioned, after ten days from the day of service, or after the time mentioned in the order provided for by subsection 4 of section 7, as the case may be, on the application of the claimant and his filing proof of due service of the affidavit and notice, or, where the claim is contested, upon the determination of the dispute in favour of the claimant, either in whole or in part, the clerk of the county court shall deliver to the creditor a certificate (Form 5) and, where the claim is disputed as to a part only, the claimant may elect, by a writing filed with the clerk, to abandon such part and is entitled to a certificate as to the residue.

Delivery to
sheriff and
effect of
certificate

(2) Upon delivery of the certificate to the sheriff the claimant shall be deemed to be an execution creditor within the meaning of this Act, and is entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate binds the lands and goods of the debtor in the same manner as an execution, subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

In case of
interpleader

(3) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

Address for
service to be
endorsed

(4) If the certificate is obtained by a solicitor, his name and address shall be endorsed thereon, and, if obtained by the claimant in person, there shall be endorsed thereon a statement of some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon him, and, in default thereof, service of any notice, paper or document may be made upon the claimant by sending it by registered mail addressed to him at the county town.

Further
levy

(5) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed and the sheriff's fees, and so from time to time in case further certificates are received.

Time of
remaining
in force

(6) A certificate remains in force for three years from the date thereof, but may from time to time be renewed in the same manner as an execution.

(7) Notwithstanding the expiry of an execution or certificate before the termination of the month during which a notice of money having been levied or received is required to be entered, the execution or certificate, as to any money levied or received during such month, shall be deemed to be in full force and effect. R.S.O. 1950, c. 78, s. 9.

10.—(1) The claim may be contested by the debtor or by a creditor of the debtor.

(2) Where the debtor contests the claim, he shall file with the clerk an affidavit stating that he has a good defence to the claim or to a specified part of it on the merits, but the judge may dispense with the affidavit on terms or otherwise.

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within ten days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by subsection 4 of section 7, as the case may be, or within such further time as the judge allows.

(4) Where the contestation is by a creditor, he shall file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant, but the judge may dispense with the affidavit on terms or otherwise.

(5) Notice of contestation, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit or after the order of the judge, if the affidavit is dispensed with.

(6) The affidavit by a creditor may be filed and a certificate thereof delivered to the sheriff at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certificate to the claimant.

(7) The affidavit of the debtor or other contestant shall have endorsed thereon a statement of some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon him, or the address of a solicitor in Ontario who may be served on his behalf, and, in default thereof, service of any notice, paper or document may be made upon the debtor or contestant by sending it by registered mail addressed to him at the county town. R.S.O. 1950, c. 78, s. 10.

Service on
Toronto
agent

11. Where the address of a solicitor is given for service that is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R.S.O. 1950, c. 78, s. 11.

Distribution
in case of
contestation

12.—(1) Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff, unless the judge otherwise orders, shall levy as if the contestation had not been made, and shall, until the determination of the contestation, retain in the bank the amount that would be apportionable to the claim if valid, and shall, as soon after the expiry of the month as is practicable, distribute the residue of the money made among those entitled thereto.

Application
for allow-
ance of
claim

(2) The claimant whose claim is contested may apply to the judge for an order allowing his claim and determining the amount, and, if he does not make such application within eight days after receiving notice of the contestation or within such further time, if any, as the judge allows, he shall be taken to have abandoned his claim.

When
contest is
not in good
faith

(3) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contestation. R.S.O. 1950, c. 78, s. 12.

Trial of
contestation

13.—(1) The judge may determine any question in dispute in a summary manner or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he deems just.

Where
sum in
controversy
exceeds \$400

(2) Where the sum in controversy appears to be over \$400 exclusive of costs, the judge shall direct that the action be brought or the issue tried in the Supreme Court, and, subject to any order that that court or a judge thereof may make in that behalf, shall name the county in which the trial is to take place.

Proceedings
where issue
directed

(3) Where an issue is directed, the trial shall take place and all proceedings subsequent thereto shall be the same as if it had been an action in the court in which it is ordered to be tried. R.S.O. 1950, c. 78, s. 13.

Production,
examination,
etc.

14. The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary

action, and such proceedings may also be taken before the application to the judge, and as a foundation therefor. R.S.O. 1950, c. 78, s. 14.

15.—(1) The clerk of the county court shall keep a book ^{Clerk to keep book of record} in which, before giving a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate or issues an execution:

1. The names of the claimant and the debtor.
2. The date of the entry.
3. The amount of the debt, exclusive of costs.
4. The amount of costs.
5. If the proceedings have been set aside, that fact, and shortly the reason therefor.

(2) The entry has, subject to this Act, the effect of and ^{Effect of entry} is a final judgment of the court for the debt and costs.

(3) The clerk shall index the entries in a book, alphabeti- ^{Index} cally under the names of the debtors.

(4) Where the original papers are lost or destroyed, a copy ^{Copy of entry as evidence} of the entry is evidence of the matters therein set forth. R.S.O. 1950, c. 78, s. 15.

16. A creditor who has recovered a judgment in a division ^{Division court judgment creditors} court against the debtor may deliver to the sheriff a certificate, under the hand of the clerk and the seal of the division court, of the amount of his judgment and of the costs to which he is entitled, and the certificate so delivered shall have the same effect, for the purposes of this Act, as if the creditor had delivered to the sheriff an execution from a county court. R.S.O. 1950, c. 78, s. 16.

17. Where a creditor has taken in one county the prescribed ^{Establishing claim in another county} proceedings in respect of his claim and desires to establish his claim for the purposes of this Act in another county, he may do so by obtaining from the clerk of the county court of the county first mentioned another certificate (Form 5), and delivering it to the sheriff of such other county, and the delivery of the certificate to the sheriff has the same effect in such other county from the time of the delivery thereof as if the certificate had been issued by the clerk of the county court of such other county upon the proceedings therein. R.S.O. 1950, c. 78, s. 17.

Executions
may issue to
any county

18. A creditor entitled to obtain a certificate from the clerk of a county court may also sue out an execution into any county in the same manner as on an ordinary judgment; but this does not prejudice the right of any other creditor to contest the claim of the first-mentioned creditor under this Act. R.S.O. 1950, c. 78, s. 18.

Effect of
decision
after
contestation

19.—(1) Where a claim is contested in one county, the decision thereon shall, as between the parties to the contestation, determine the amount of the claim for the purposes of this Act and in all other counties in which the claim is filed, and the certificate of the clerk of the county court of the county in which the contestation has taken place as to the result thereof is sufficient evidence of the decision.

Fee for
certificate
of result

(2) Upon payment of a fee of 50 cents the certificate shall be granted to any party to the proceedings who applies therefor. R.S.O. 1950, c. 78, s. 19.

Effect of
payment or
withdrawal
of all
executions
and
certificates

20.—(1) Where the debtor, without a sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed, or where all executions and certificates in the sheriff's hands are withdrawn and any claims filed are paid or withdrawn, notice shall not be entered under section 5 and no further proceedings shall be taken under section 6.

Where all
not satisfied

(2) Save as aforesaid, after a certificate has been delivered to the sheriff, the withdrawal or expiry of the execution upon which the proceedings are founded, or any stay of the same, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the execution, does not affect the proceedings that may be taken under this Act, and, except so far as the action taken with respect to the execution may affect the amount to be levied, the sheriff shall levy upon the property of the debtor as he would have done had the execution remained in his hands in full force for execution, and he may also take the like proceedings as he would have been entitled to take had the execution been a writ of *venditioni exponas*.

Effect of
part pay-
ment where
one debt

(3) Where a debtor, without a sale by the sheriff, pays to him part of the amount owing in respect of an execution or certificate in his hands, and there is at the time no other execution or certificate in his hands, the sheriff shall apply the money so paid on the execution or certificate, and section 5 does not apply to the money so paid. R.S.O. 1950, c. 78, s. 20.

21.—(1) Where proceedings have been taken against a debtor under *The Absconding Debtors Act* and his property has been attached under an order of attachment before an execution has been placed in the hands of the sheriff and the money levied is the proceeds of such property or a part thereof, the cost of the order of attachment, or, if there are more than one, the one first placed in the sheriff's hands and the proceedings thereon have priority over the claim of all other creditors.

Priority of
costs under
R.S.O. 1960,
c. 1

(2) Where an attaching creditor is entitled to priority under subsection 1, the priority provided for by subsection 2 of section 5 shall not be given to the execution creditor.

Attaching
creditor and
execution
creditor

22.—(1) The clerk of the county court shall ascertain and state in his certificate the amount of the costs to which the claimant is entitled as against the debtor.

Costs of
claimant

(2) Such costs shall be the following:

Scale of
costs

1. For serving the affidavit of claim and notice, in the case of claims over \$400, on the scale of the Supreme Court, and in the case of claims exceeding \$200 and not exceeding \$400, on the county court scale, and in the case of claims of \$200 and under, on the division court scale; but, if the claim does not exceed \$200, no greater fees are to be allowed than would be allowed to a division court bailiff for the service of a division court summons and mileage if the claim had been sued in the proper division court.
2. The fees paid to the clerk of the county court, on the scale for like proceedings in the county court, unless the claim does not exceed \$200, in which case his fees are those allowable for like proceedings in the division court.
3. Where there is no contest, \$5 for fees of a solicitor, if one is employed, unless the amount of the claim does not exceed \$200, in which case the sum of \$2 shall be allowed.
4. Where there is a contest, such additional costs as the judge allows, to be taxed on the scale of the Supreme Court, county court, or division court, according as the amount in dispute is within the jurisdiction of one or other of such courts.

5. The costs of obtaining an order for substitutional service or other similar order and of such service, and of or incidental to service out of Ontario, if the claim is within the jurisdiction of the division court, only such costs as would have been allowed in the division court. R.S.O. 1950, c. 78, s. 22.

Payment to
sheriff of
fund in
court

23. Where there is in a court a fund belonging to an execution debtor or to which he is entitled, it or a sufficient part thereof to meet the executions and certificates in the sheriff's hands may, on the application of the sheriff or any person interested, be paid over to the sheriff, and it shall be deemed to be money levied under execution within the meaning of this Act. R.S.O. 1950, c. 78, s. 23.

Money
made by
receiver

24. Where a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of his debtor, the receiver shall pay into court the money received by him by virtue of his receivership, and it is subject to section 23, but the creditor is entitled to be paid thereout the costs of and incidental to the receivership order and the proceedings thereon in priority to the claims of all other creditors. R.S.O. 1950, c. 78, s. 24.

Goods in
hands of
division
court
bailiff

25.—(1) If the sheriff does not find property of a debtor leviable under the executions and certificates in his hands sufficient to pay the same in full, but finds property or the proceeds thereof in the hands of the bailiff of a division court under an execution or attachment against the debtor, the sheriff shall demand and obtain them from the bailiff, who shall forthwith deliver them to the sheriff with a copy of every execution and attachment in his hands against the debtor and a memorandum showing the amount to be levied under the execution, including the bailiff's fees, and the date upon which each execution or attachment was received by him.

Penalty for
default

(2) If the bailiff fails to deliver any of such property or the proceeds thereof, he shall pay double the value of that which is retained, which may be recovered by the sheriff from him with costs of suit, and shall be accounted for by the sheriff as part of the estate of the debtor.

Costs

(3) The costs and disbursements of the bailiff are a first charge upon such property or the proceeds thereof and shall be paid by the sheriff to the bailiff upon demand after being taxed by the division court clerk.

(4) The sheriff shall distribute the proceeds among the creditors entitled to share in the distribution, and the division court execution creditors are entitled without further proof to stand in the same position as creditors whose executions are in the sheriff's hands. R.S.O. 1950, c. 78, s. 25. Distribution of proceeds

26. Where the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the money shall be applied to the payment rateably of such debts and costs of the creditors, after retaining the sheriff's fees including poundage, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made where he is entitled to priority therefor under this Act. R.S.O. 1950, c. 78, s. 26. Apportionment

27. The sheriff, if directed by an endorsement upon a certificate, shall, in addition to the amounts named therein, levy interest on such amounts from the date of the certificate, or from the date named in that behalf in the certificate, and also \$1.35 for the disbursements on every renewal of the certificate, and, where such renewal is made upon the application of a solicitor, he shall also levy \$1.25 for the solicitor's costs on the renewal. R.S.O. 1950, c. 78, s. 27. Levy of interest and costs of renewals

28. Where money is to be distributed by the sheriff under this Act, he is not entitled to poundage as upon separate executions or certificates, but only upon the net proceeds distributable by him at the same rate as if the whole amount had been payable upon one execution. R.S.O. 1950, c. 78, s. 28. Sheriff's poundage

29.—(1) Where money is made under an execution, it shall be taken to have been made under all the executions and certificates entitled to the benefit thereof, and, upon payment being made to the person entitled under any such execution or certificate, the sheriff shall endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the execution, or by direction of the court out of which the same issued, or of a judge thereof, return the execution until it has been fully satisfied or has expired, in which latter case the sheriff shall make a formal return of the amount made thereunder. Application of money made under execution

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to a certificate as can now be had to compel the return by the sheriff of an execution. R.S.O. 1950, c. 78, s. 29. Compelling payment by sheriff

Statement
to be kept
in sheriff's
office,
pending
distribution

30. Pending the distribution, the sheriff shall keep, in the book mentioned in section 5, a statement (Form 6) showing,

- (a) the amounts levied or received and the dates of levy or receipt;
- (b) each execution, certificate or order in his hands at the time of making the entry (Form 1), or subsequently received during the month, the amount thereof, for debt and costs, and the date of receipt, and such statement shall be amended from time to time as additional amounts are levied or received or further executions, certificates or orders are received. R.S.O. 1950, c. 78, s. 30.

Sheriff to
give infor-
mation as
to estate
of debtor

31. The sheriff shall at all times without fee answer any reasonable question that he is asked orally respecting the property of the debtor by a creditor or any one acting on the creditor's behalf, and shall facilitate the obtaining by him of full information respecting the property and the probable dividend to be realized therefrom in his county, or any other information in connection with the property that the creditor may reasonably desire to obtain. R.S.O. 1950, c. 78, s. 31.

Distribution
by sheriff
where
amount
levied
insufficient
to meet all
claims

32.—(1) Where at the time for distribution the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.

Contents
of list

(2) The list shall be so arranged as to show the amount payable to each creditor and the total amount to be distributed, and the sheriff shall deliver or send by registered mail a copy of the list to each creditor or his solicitor.

Time for
distribution

(3) If within eight days after all the copies have been delivered or posted, or within such further time as the judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list.

Where
objection
made

(4) If objection is made, the sheriff shall forthwith distribute rateably so much of the money made, and among such persons, as will not interfere with the effect of the objection in case it should be allowed.

Right of
contestation

(5) Any person affected by the proposed scheme of distribution may contest it by giving, within the time mentioned in subsection 3, a notice in writing to the sheriff stating his objection to the scheme and the grounds thereof.

(6) The contestant shall within eight days thereafter apply Order to the judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned.

(7) The contestant shall, within the time mentioned in Appointment subsection 6, obtain from the judge an appointment for hearing and determining the matter in dispute.

(8) A copy of the appointment and a notice in writing Service (Form 7) of the objections stating the grounds thereof shall be served by the contestant upon the debtor, unless he is the contestant, and upon the creditors or such of them as the judge directs.

(9) The judge may determine any question in dispute in Determination of dispute a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he deems just, and subsections 2 and 3 of section 13 apply.

(10) Where a claimant is held to be not entitled or to be Distribution of money retained entitled to part only of his claim, the money retained pending the contestation or the portion as to which the claimant has failed shall be distributed among the creditors who would have been entitled to it as it would have been distributed had the claim in respect thereof not been made.

(11) Where a debtor has executed a mortgage or other charge, otherwise valid, upon his property or a part thereof Rights of subsequent execution creditors where first execution followed by a mortgage after the receipt of an execution by the sheriff and before distribution, such mortgage or charge shall not prevent the sheriff from selling the property under an execution or certificate placed in his hands before distribution as if such mortgage or charge had not been given, nor prevent creditors whose executions or certificates are subsequent thereto from sharing in the distribution; but, in distributing the money realized from the sale of such property, the sheriff shall deduct and pay to the person entitled thereto the amount of such mortgage or charge from the amount that would otherwise be payable out of the proceeds of such property to such subsequent creditors.

(12) In the case provided for in subsection 11, the sheriff Scheme of distribution in above case shall prepare a separate scheme of distribution of the proceeds of the encumbered property without reference to the mortgage or charge, and from the dividends payable according to such scheme to subsequent creditors there shall be deducted the

amount of the mortgage or charge, and the amount so deducted shall be paid to the encumbrancer. R.S.O. 1950, c. 78, s. 32.

Directions
by judge to
avoid un-
necessary
parties
and trials

33. Where several creditors are interested in a contestation, either for or against the same, the judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he deems just, and shall direct by whom and in what proportions any cost incurred in the contestation, or in any proceedings thereunder, shall be paid, and whether any and what costs shall be paid out of the money levied. R.S.O. 1950, c. 78, s. 33.

Direction by
judge to
sheriff
where claim
is disputed

34.—(1) The judge may direct the sheriff to levy for an amount sufficient to cover a claim that is in dispute, or part thereof, or, if it appears to the judge that it is improbable that the debtor has other sufficient property, he may direct the sheriff to retain in his hands during the contestation the share that, if the claim is sustained, will be apportionable to it, or a part thereof.

Authority
of sheriff
under order

(2) An order to levy under this section confers on the sheriff the same authority as he would have under an execution. R.S.O. 1950, c. 78, s. 34.

Effect of
decisions

35. The decision of a judge of the county court or of the Court of Appeal on an appeal binds the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. R.S.O. 1950, c. 78, s. 35.

Deposit of
money in
bank

36.—(1) Where money comes into the hands of a sheriff, he shall, whenever it amounts to \$100, deposit it in a chartered bank designated for that purpose by the Lieutenant Governor in Council, or, where there is no such bank, in a chartered bank in which public money of Ontario is then being deposited. R.S.O. 1950, c. 78, s. 36 (1), *amended*.

Special
account

(2) The deposit shall be made in a special account in the name of the sheriff as "Trustee for the creditors of (the debtor)". R.S.O. 1950, c. 78, s. 36 (2).

Attaching
orders by
sheriff

37. Where there are in the sheriff's hands several executions and certificates and there does not appear to be sufficient property to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of the sheriff, whether

the debt is owing by such person alone or jointly with another person resident or not resident in the county, and to procure an order and to obtain and enforce payment of the debt the sheriff may take the same proceedings as a creditor, and in such case an execution may be directed to him in the same manner as if the attachment were by a creditor, and the proceeds of the debt attached shall be dealt with and distributed in the same manner as if he had realized the proceeds under execution. R.S.O. 1950, c. 78, s. 37.

38. If a party to a contestation or matter upon which Appeal a judge has rendered or made a final judgment or order is dissatisfied with the judgment or order and it is in respect to a question involving a sum greater than \$100, he may appeal therefrom to the Court of Appeal as nearly as may be according to the practice in force in respect of appeals from a county court or a judge thereof. R.S.O. 1950, c. 78, s. 38.

39. For the purpose of giving effect to this Act and carry- Powers of judge
ing out its provisions, a judge has all the powers that a county court or a judge thereof has by law for other purposes, and any proceedings erroneously taken under this Act may be set aside by the judge, with or without costs as he thinks fit. R.S.O. 1950, c. 78, s. 39.

40. Upon any proceeding before the judge, the evidence Evidence on
may be taken orally or by affidavit as the judge directs. proceeding before judge
R.S.O. 1950, c. 78, s. 40.

41. In addition to the fees authorized to be paid to the Fees
clerk of the county court for his own use, the following fees payable to
are payable to the Crown upon all claims filed, where the the Crown
amount of the claim exceeds \$200:

On an affidavit of claim where the amount claimed does not exceed \$400.....	\$.80
On every such affidavit where the claim exceeds \$400....	1.50
On every certificate of the clerk given under section 9, where the claim does not exceed \$400.....	.80
On every such certificate where the claim exceeds \$400....	1.50
On every order made by the judge allowing or disallowing a claim, where the claim does not exceed \$400.....	.50
On every such order where the claim exceeds \$400.....	1.00

R.S.O. 1950, c. 78, s. 41, amended.

42. Except where inconsistent with this Act, *The Judica- Application
ture Act* and the rules of court apply to proceedings under of R.S.O.
this Act. R.S.O. 1950, c. 78, s. 42. 1960, c. 197,
and rules
of court

FORM 1

The Creditors' Relief Act

(Section 5 (1); Section 30 (b))

SHERIFF'S ENTRY

I have on this day in my hands for distribution under *The Creditors' Relief Act* among the creditors of *C.D.* the sum of \$....., and the distribution will be made among the creditors of *C.D.* entitled to share therein at the expiration of one month from this day.

Dated the.....day of....., 19.....

F.G.
Sheriff

R.S.O. 1950, c. 78, Form 1.

FORM 2

The Creditors' Relief Act

(Section 7 (1))

AFFIDAVIT OF CLAIM

In the County Court of the County of

A. B....., Claimant

and

C. D....., Debtor

I, A. B., of....., in the County of....., Merchant (*or as the case may be*), make oath and say:

1. I am the above-named claimant (*or the duly authorized agent of the claimant*) in this behalf, and have a personal knowledge of the matter hereinafter deposed to.

2. The above-named debtor is justly and truly indebted to me (*or to the above-named claimant*) in the sum of \$....., for [*here state shortly the nature and particulars of the claim*].

Sworn, etc.

A. B.

R.S.O. 1950, c. 78, Form 2.

FORM 3

The Creditors' Relief Act

(Section 7 (3); Section 8 (3, 4))

NOTICE TO BE SERVED WITH CLAIM

In the County Court of the County of.....

A. B....., Claimant

and

C. D....., Debtor

To the above-named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of the County of.....(or as the case may be) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county an execution against your property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of *The Creditors' Relief Act*.

And further take notice that, if you desire to contest the said claim or any part thereof, you must, within ten (10) days* after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed, the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only, such claim may be so treated as to the part not contested.

And further take notice that, unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county at which service may be made upon you, or the address of some solicitor in Ontario who may be served on your behalf, service may be made upon you of any notice, paper or document by sending it by registered mail addressed to you at the said county town.

Dated the.....day of....., 19....

A. B.

Claimant

*NOTE.—If further time is given by a judge, the notice should be varied accordingly.

R.S.O. 1950, c. 78, Form 3.

FORM 4

The Creditors' Relief Act

(Section 8 (5))

AFFIDAVIT OF SERVICE OF CLAIM

In the County Court of the County of.....

A. B....., Claimant
and

C. D....., Debtor

I, G. H., of....., in the County of....., make oath and say:

1. That I did, on the.....day of....., 19....., personally serve C. D., the above-named debtor (*or as the case may be*) with an original affidavit, identical with the annexed affidavit, and that there was, at the time of such service, attached to (*or endorsed upon*) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (*or endorsed upon*) the said annexed affidavit.

Sworn, etc.

G. H.

R.S.O. 1950, c. 78, Form 4.

FORM 5

The Creditors' Relief Act

(Section 9 (1); Section 17)

CERTIFICATE OF PROOF OF CLAIM

In the County Court of the County of.....

A. B....., Claimant
and

C. D....., Debtor

I,, Clerk of the County Court of the County of....., do hereby certify:

1. That the above-named claimant did on the.....day of....., 19....., file with me a claim against the above-named debtor, for the sum of..... together with an affidavit of personal service thereof (*or as the case requires*) and of the notice required by *The Creditors' Relief Act*, upon the said debtor, and that it thereby appears that such service was made on the.....day of....., 19.....

2. That the debtor has not contested the said claim (*or, has only contested the sum of.....part of the said claim (as the case may be), and that the claimant having abandoned such part is entitled to the residue of his claim, being the sum of.....and the further sum of.....for costs*) (*Or when the claim is contested in whole or in part,* 2. That the claim has been allowed by the judge at the sum of \$....., with \$.....for costs.)

G. H.

Clerk

R.S.O. 1950, c. 78, Form 5.

FORM 6

The Creditors' Relief Act

(Section 30)

SHERIFF'S STATEMENT OF EXECUTIONS, ETC., IN HIS HANDS AGAINST
C. D.

CAUSE	Proceedings	Claim without Costs	Costs	Date of Receipt by Sheriff	Amount Levied or Received	Date of Levy or Receipt
A. B. v C. D....	<i>Fi. fa.</i> goods and lands	\$ 504	\$ 30	18th Feb., 19 .	\$ 500	1st May, 19 .
F. G. v C. D. & E. G.	<i>Fi. fa.</i> goods and lands	400	20	1st March, 19 .	300	3rd May, 19 . Nothing made against E.G.
K. L. v C. D....		500	30		300	9th May, 19 .
M. N. v C. D. ..	Creditor's Certificate	400	5	15th May, 19 .		

R.S.O. 1950, c. 78, Form 6.

FORM 7

The Creditors' Relief Act

(Section 32 (8))

NOTICE OF CONTESTATION OF SCHEME OF DISTRIBUTION

In the County Court of the County of.....

A. B....., Claimant

and

C. D....., Debtor

To C. D., debtor, and F. G. and M. N., claimants.

Take notice that I contest the scheme of distribution prepared by the Sheriff of the County of..... in respect of the claims of you, the said F. G. and M. N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated the.....day of....., 19.....

X. Y.
Contestant

R.S.O. 1950, c. 78, Form 7.

CHAPTER 79

The Credit Unions Act**1.** In this Act,Interpre-
tation

- (a) “amendment of a by-law” includes a new by-law and a resolution revoking a by-law;
- (b) “by-laws” means by-laws approved under this Act, and includes any amendment of a by-law approved under this Act;
- (c) “land” includes hereditaments and chattels real, and any interest therein;
- (d) “meeting” includes a meeting of delegates appointed by members;
- (e) “officer” includes treasurer, secretary, manager, assistant treasurer, assistant secretary and assistant manager;
- (f) “persons claiming through a member” includes the heirs, executors, administrators and assigns of a member;
- (g) “property” includes all real and personal estate;
- (h) “registrar” means the registrar of credit unions appointed for the purposes of this Act;
- (i) “regulations” means the regulations made under this Act;
- (j) “Superintendent” means the Superintendent of Insurance;
- (k) “supervisor” means the supervisor of credit unions appointed for the purposes of this Act. 1953, c. 26, s. 1; 1954, c. 17, s. 1.

Applications
subject to
approval of
Provincial
Secretary

2. All applications under this Act are subject to the approval of the Provincial Secretary after consideration of the compliance of the application with this Act and of all circumstances connected therewith, and the Provincial Secretary or any officer of his department to whom an application is referred may, for the purpose of any inquiry into such circumstances and the sufficiency and regularity of the application, take evidence in writing under oath. 1953, c. 26, s. 2.

Idem

3. All applications to the Provincial Secretary for incorporation shall be by memorandum of association, verified by affidavit or declaration, and a certificate of incorporation shall not be issued without the written approval of the Superintendent. 1953, c. 26, s. 3.

Objects of
credit
unions

4.—(1) Credit unions may be incorporated having for their object and purpose,

- (a) the receiving of moneys on deposit from members and as payment for shares;
- (b) the making of loans to members with or without security for provident and productive purposes. 1953, c. 26, s. 4; 1956, c. 13, s. 1 (1).

Ancillary
powers

(2) As incidental and ancillary to the objects set out in subsection 1, a credit union may,

- (a) make loans to other credit unions;
- (b) deposit moneys with and make loans to any league incorporated under section 53 or a predecessor thereof so long only as the amount so deposited or loaned does not exceed 25 per cent of its share capital and deposits;
- (c) subject to confirmation by its members at an annual or special general meeting, make donations and gifts out of its surplus income or any undivided earnings, other than the guarantee fund, for the purpose of advancing the interests of the credit union or of credit unions generally. 1956, c. 13, s. 1 (2), *amended*.

Number
necessary to
incorporate

5.—(1) Any number of persons not less than twenty, capable of contracting, may be incorporated as a credit union.

Memoran-
dum of
association

(2) Such persons shall sign in duplicate before two witnesses a memorandum of association in the prescribed form, and both copies, with two copies of the proposed by-laws, shall be forwarded to the Provincial Secretary. 1953, c. 26, s. 5.

6.—(1) Upon receipt of the documents mentioned in sub-section 2 of section 5, the Provincial Secretary may, in his discretion, refuse to issue a certificate of incorporation or may issue a certificate of incorporation. Certificate of incorporation

(2) One copy of the memorandum of association shall be retained by the Provincial Secretary and the other copy of such memorandum, to which the certificate of incorporation shall be affixed, shall be forwarded to the credit union. Return of memorandum

(3) On and after the date of the certificate of incorporation, the credit union is a corporation under the name set forth in the certificate, and all property for the time being vested in any person in trust for the credit union is vested in the credit union and the certificate of incorporation and the by-laws of the credit union, together with this Act, constitute the charter of the credit union. Date of incorporation; vesting of property

(4) The Provincial Secretary shall cause notice of the issue of a certificate of incorporation to be given in *The Ontario Gazette* and to the Superintendent. 1953, c. 26, s. 6. Notice

7. The production of a copy of *The Ontario Gazette* containing the notice of incorporation of a credit union is conclusive evidence that the credit union was duly incorporated. 1953, c. 26, s. 7. Evidence of incorporation

8. The membership of a credit union shall be limited to persons having a common bond of occupation or association or to persons within a well-defined neighbourhood or community. 1953, c. 26, s. 8. Membership

9.—(1) Every credit union shall have a registered office to which all communications and notices shall be sent, and the credit union shall send to the supervisor written notice in duplicate of the location of its registered office and of every change of the location. Registered office

(2) The supervisor shall transmit one copy of such notice to the Provincial Secretary. 1953, c. 26, s. 9; 1954, c. 17, s. 2. Idem

10. A corporation that is subject to this Act may, by by-law, provide for the holding, purchasing or leasing in its own name of such real estate as is necessary for its own use and benefit for the transaction of its business and may sell, mortgage or dispose of it, and, with the written consent of the Superintendent, may lease, acquire or construct a building larger than is required for the transaction of its business and ease any part of the building not so required. 1954, c. 17, s. 3. Power to hold real estate

Name

11. No credit union shall be incorporated under a name identical with that of any other credit union or of any corporation or organization or under a name so nearly resembling that of any other credit union, corporation or organization as, in the opinion of the Provincial Secretary, to be likely to deceive. 1953, c. 26, s. 11.

"Limited"
or "Limitée"
in name

12. The word "Limited" or "Limitée" shall be the last word of the name of every credit union. 1953, c. 26, s. 12; 1959, c. 21, s. 1.

Use of words
"credit
union"

13. Every person, not being a credit union to which this Act applies, that trades or carries on business under a name or title of which the words "credit union" form a part is guilty of an offence under this Act. 1953, c. 26, s. 13.

Change of
name, by
Provincial
Secretary

14.—(1) The Provincial Secretary may at any time by order change the name of a credit union where he deems it to be identical with the name of any other credit union or any corporation or organization or so nearly to resemble any such name as to be likely to deceive or if for any other reason he deems it to be objectionable.

Idem

(2) A credit union may, if authorized by a resolution passed by two-thirds of its members present at a general meeting called for that purpose, apply to the Provincial Secretary for an order changing its name.

Notice

(3) The Provincial Secretary shall cause notice of the change of name of a credit union to be given in *The Ontario Gazette*.

Effect of
change of
name

(4) A change of name of a credit union does not affect any right or obligation of the credit union or of any member thereof, and any pending legal proceedings may be continued by or against the credit union notwithstanding such change. 1953, c. 26, s. 14.

By-laws

15. By-laws of a credit union may,

- (a) prescribe the purposes for which the profits of the credit union may be appropriated;
- (b) prescribe the maximum number of shares that may be held by a member thereof;
- (c) prescribe the maximum amount that may be deposited by or loaned to a member thereof;
- (d) provide for the expulsion and withdrawal of members thereof;

(e) prescribe the form of any instrument necessary for carrying the purposes of the credit union into effect; and

(f) provide for such other matters as are authorized by the regulations. 1953, c. 26, s. 15.

16.—(1) No by-law or amendment of a by-law is operative until it has been approved by the supervisor, for which purpose two copies thereof, signed by three members and the secretary or by the president and the secretary, shall be sent to the supervisor. Approval of by-laws

(2) The supervisor, on being satisfied that a by-law or amendment of a by-law has been duly passed by the credit union, may approve it. 1953, c. 26, s. 16; 1954, c. 17, s. 4. Idem

17. The by-laws of a credit union bind the credit union and every member thereof and every person claiming through a member to the same extent as if the member had subscribed his name and affixed his seal thereto and as if there were contained in such by-laws a covenant on the part of the member, his heirs, executors, administrators and assigns to conform thereto subject to this Act. 1953, c. 26, s. 17. By-laws, effect of

18. A copy of the by-laws of a credit union shall be delivered by the credit union to every member on demand on payment of the sum fixed by the by-laws. 1953, c. 26, s. 18. Copies of by-laws

19. A credit union may create a capital divided into shares, and the amount thereof, the number of shares, and the payments thereon, shall be determined by its by-laws, but the amount of each share shall in no case exceed \$10. 1953, c. 26, s. 19. Capital, how created

20.—(1) The capital of a credit union may, subject to the by-laws, be increased by subscriptions for new shares or the admission of new members, and it may be diminished by withdrawals. 1953, c. 26, s. 20. Capital, how increased and diminished

(2) After the first application for a share or shares by a member, payment on account of additional shares shall be deemed an application for such additional shares and receipt of the payments by the credit union shall be deemed to be an allotment of such shares. 1954, c. 17, s. 5. Additional shares

(3) A member is not liable to the credit union for shares subscribed for in excess of the amount actually paid thereon. 1956, c. 13, s. 2. Member's liability for shares

Shares
in trust

21. A member, in addition to holding shares in his own name, may subscribe for and hold shares and make deposits in trust for a named beneficiary, and such beneficiary without payment of any entrance fee shall be deemed to be a member of the credit union only for the purpose of qualifying for life insurance under a group policy of insurance purchased by the credit union on the lives of its members and is not entitled to notice of meetings or to vote at meetings. 1954, c. 17, s. 6, *part*.

Joint
accounts

22. Two or more members may hold their shares and deposits in a joint account, and, in the absence of written notice to the contrary, payment by the credit union to any of such members or to the survivor or any of the survivors of such members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment. 1954, c. 17, s. 6, *part*.

Loans to
corporations

23. Any corporation may become a member of a credit union, but no loan shall be made to any such corporation unless the loan has been approved by a joint meeting of the board of directors, credit committee and supervisory committee of the credit union. 1953, c. 26, s. 21.

Votes

24. No member shall have more than one vote, and voting by proxy shall be allowed only when shares are held by an agricultural association, a municipal body, a school board, or other corporation. 1953, c. 26, s. 22.

Members
under 21

25. Subject to the by-laws, a person under the age of twenty-one years may be a member of a credit union, and every such person may enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the by-laws, but shall not be a trustee, manager, treasurer or a member of the board of directors, credit committee or supervisory committee of the credit union and does not have the right to borrow any amount in excess of his savings in the credit union except upon a joint and several promissory note signed by him and by a person over twenty-one years of age. 1954, c. 17, s. 7.

Register of
members
and shares

26.—(1) Every credit union shall keep a register or list of members and shares.

Idem

(2) The register or list, as the case may be, is *prima facie* evidence of any of the following matters entered therein:

1. The names and addresses of the members and the number of shares held by each member.

2. The date on which the name of any person or corporation was entered in the register or list as a member.

3. The date on which any person or corporation ceased to be a member. 1953, c. 26, s. 24.

27.—(1) All moneys payable by a member to a credit union are a debt due from the member to the credit union and are recoverable as such in a court of competent jurisdiction. Credit union has lien on shares

(2) A credit union has a lien on the shares and deposits of a member for any debt due to it by him, and may set off any sum standing to the credit of such member on the books of the credit union in or towards the payment of such debt. Recovery of moneys payable by member
1953, c. 26, s. 25.

28.—(1) Every credit union shall set aside at least 20 per cent of its yearly net profits as a guarantee fund to meet losses, and the fund shall be held as a reserve against uncollectable loans and losses, but where at the close of any fiscal year the amount set aside for the guarantee fund equals at least 10 per cent of the total amount received from members on deposit and as payment for shares, the directors may, subject to the approval of two-thirds of the members present at the annual meeting, direct that no moneys be set aside for the guarantee fund for the then current year. 1953, c. 26, s. 26 (1). Guarantee fund

(2) A credit union may by resolution of the members provide that, after making provision for the guarantee fund and before declaring a dividend, an amount not exceeding 5 per cent of the net earnings be set aside in a special fund to be used for such educational purposes as are specified in the resolution. 1953, c. 26, s. 26 (2); 1959, c. 21, s. 2. Educational fund

(3) Entrance fees and fines, if any, shall be added to the guarantee fund, but an amount not exceeding \$70 may, in the discretion of the board of directors, be withdrawn therefrom to cover organization expenses incurred during the first year of operations. Entrance fees and fines

(4) Subject to the approval of the board of directors and the supervisory committee, the outstanding principal balance of any uncollectable loan, after crediting to such principal any moneys to the credit of the member on shares and deposits, shall be charged to the guarantee fund and no charge shall be made to the guarantee fund for fines or interest on any such loan from the date of the last interest payment made by the Uncollectable loans

borrower nor shall the amount standing to the credit of the member on shares or deposits be applied towards payment of fines or interest. 1954, c. 17, s. 8.

Advances to
members
only

29.—(1) Subject to clauses *a* and *b* of subsection 2 of section 4, no credit union shall advance money by discount, loan or otherwise to, or accept deposits from, persons other than its members. 1953, c. 26, s. 27 (1); 1954, c. 17, s. 9 (1); 1957, c. 20, s. 1.

Interest rate
on loans

(2) Interest together with all charges and penalties shall not exceed 1 per cent per month on the unpaid balance of any loan. 1953, c. 26, s. 27 (2).

Loans to
officers

(3) No officer or member of a committee or of the board of directors of a credit union shall borrow an amount in excess of the aggregate of his fully-paid-up shares and deposits unless such loan is approved by the directors and the supervisory committee in addition to the approval required by the credit committee. 1954, c. 17, s. 9 (2); 1956, c. 13, s. 3.

Board of
directors

30.—(1) Every credit union shall at its first general meeting elect from its members a board of directors of at least five members who shall hold office for such term as the by-laws prescribe and until their successors are elected.

Duties of
board

(2) The board of directors shall perform such duties as are prescribed by this Act, the regulations, and the by-laws of the credit union. 1953, c. 26, s. 28.

Election
in rotation

(3) The by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than three years.

Quorum

(4) A majority of the board of directors constitutes a quorum.

Vacancies

(5) So long as there is a quorum of directors in office, any vacancy occurring on the board of directors may be filled until the next annual meeting by the directors then in office.

Idem

(6) When a quorum of directors is not in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member.

Idem

(7) When a member of the board of directors fails to attend three consecutive meetings of the board without, in the opinion of the board, having a reasonable cause therefor or

fails to perform any of the duties allotted to him as a member of the board, his position on the board may be declared vacant by the remaining members of the board and the vacancy shall be filled as provided in this section. 1954, c. 17, s. 10.

31.—(1) Every credit union shall at its first general meeting elect from its members a credit committee of at least three members, who shall not be members of the board of directors or the supervisory committee or officers of the credit union, and who shall hold office for such term as the by-laws prescribe and until their successors are elected, but, if the by-laws so provide, the president shall be a member *ex officio* of the credit committee. 1953, c. 26, s. 29 (1).

(2) The by-laws may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years.

(3) A majority of the credit committee constitutes a quorum.

(4) Any vacancy occurring in the credit committee may be filled by the board of directors until the next annual meeting.

(5) When a member of the credit committee fails to attend three consecutive meetings of the committee without, in the opinion of the board of directors, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the board of directors and the vacancy shall be filled as provided in this section.

(6) It is the duty of the credit committee to consider all applications and approve all loans to members.

(7) The credit committee may upon such terms as it determines,

- (a) authorize the treasurer or manager, without obtaining its approval, to make loans in amounts not exceeding the shares and deposits of the borrower less any debts owing by him to the credit union; or
- (b) authorize the treasurer, manager or other person, without obtaining its approval, to make loans in amounts not exceeding \$25 for periods not exceeding one month.

Maximum
loans

(8) The credit committee shall not approve any loan that is greater in amount than the maximum amount that may be loaned to a member as set out in the by-laws of the credit union. 1954, c. 17, s. 11.

Supervisory
committee

32.—(1) Subject to subsection 15, every credit union shall at its first general meeting elect from its members a supervisory committee of three members, who shall not be members of the board of directors or the credit committee or officers of the credit union, and who shall hold office for such term as the by-laws prescribe and until their successors are elected. 1956, c. 13, s. 4 (1).

Election in
rotation

(2) The by-laws may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years.

Quorum

(3) Two members of the supervisory committee constitute a quorum.

Vacancies

(4) So long as there is a quorum of members of the supervisory committee in office, any vacancy occurring in the supervisory committee may be filled until the next annual meeting by the members of the supervisory committee then in office.

Idem

(5) When a quorum of members of the supervisory committee is not in office, the directors may fill the vacancies until the next annual meeting or may forthwith call a general meeting of the members to fill the vacancies.

Idem

(6) When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the board of directors, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members thereof and the vacancy shall be filled as provided in this section.

Duties

(7) The supervisory committee shall from time to time examine and audit the books of the credit union and the deposit books of the members and shall check the cash, investments and securities of the credit union.

Misappropriation of
funds, etc.

(8) In the event of any of the funds, securities or other property of the credit union being misappropriated or misdirected or in the event of any of the by-laws of the credit

union being contravened by the board of directors or by the credit committee or by a member thereof or by an officer or employee engaged by the board of directors, the supervisory committee shall forthwith advise the registrar in writing and shall call a general meeting of the credit union, and, pending the holding of the general meeting, the committee may suspend any member of the board of directors or credit committee or any officer or employee until the general meeting and may appoint a member of the credit union to perform the duties of the person so suspended.

(9) The supervisory committee shall report to the general ^{Idem} meeting all the circumstances of such misappropriation or misdirection of funds, securities or other property and the reasons for such suspension, and the members of the credit union may by a vote of two-thirds of the members present at the meeting, or at any adjournment thereof, dismiss from office any person so suspended, and, when the members of the credit union do not so vote to dismiss from office any person so suspended, the person shall be reinstated forthwith.

(10) The supervisory committee shall submit a written ^{Annual report} report to each annual general meeting.

(11) A credit union may, by by-law, provide for the appoint- ^{Auditors}ment of an auditor or auditors in lieu of or in addition to the supervisory committee and may delegate to such auditor or auditors the whole or such part of the duties of the supervisory committee as the by-law provides.

(12) The members of the credit union may fix the remunera- ^{Remuneration of}tion of the auditor or auditors or may delegate to the board of ^{auditors} directors authority to fix such remuneration.

(13) If a majority of the supervisory committee suspects ^{Special audit} that any of the funds, securities or other property of the credit union have been misappropriated or misdirected, the supervisory committee may, with the written approval of the registrar, appoint an auditor or auditors to assist it in ascertaining whether any of the funds, securities or other property of the credit union have in fact been misappropriated or misdirected and the remuneration of any auditor or auditors so appointed shall be paid by the credit union.

(14) The supervisory committee may appoint such persons ^{Clerks} as it deems necessary to assist it in performing its duties, and the remuneration to be paid to such persons shall be determined by the board of directors. 1954, c. 17, s. 12, *part.*

Delegation
of powers
to board of
directors

(15) Where a credit union pursuant to subsection 11 has passed a by-law appointing an auditor or auditors to perform the duties of the supervisory committee set forth in subsections 7 and 10, the by-law may delegate the remaining powers and duties of the supervisory committee to the board of directors and provide that so long as the by-law remains in force it is not necessary to elect the supervisory committee as required by subsection 1. 1956, c. 13, s. 4 (2).

Payments
to officers

33. All payments to officers of a credit union for services rendered shall be approved by its board of directors. 1953, c. 26, s. 31.

Bond of
officers

34. Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall before assuming the duties of his office furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties with such sureties and in such form and amount as the board of directors determines. 1953, c. 26, s. 32.

Investment
of funds

35.—(1) The funds of a credit union may be invested,

R.S.O. 1960,
c. 71

(a) in any investment that is authorized by *The Corporations Act* for the investment of the funds of a joint stock insurance company; or

(b) in any investment, where such investment is approved by a resolution passed by a two-thirds majority of those present at a meeting of the members called for the purpose, but in no case shall a resolution under this clause affect more than 10 per cent of the share capital and deposits of the credit union and in no case shall the aggregate of all investments of the credit union under this clause exceed 25 per cent of its share capital and deposits; or
1953, c. 26, s. 33 (1); 1954, c. 17, s. 13.

(c) in the paid-up shares of any credit union or credit union league to which this Act applies so long only as the amount so invested does not exceed 25 per cent of its share capital. 1956, c. 13, s. 1 (2), *part, amended*.

Idem

(2) Any investment made by a credit union before the 7th day of June, 1949, that does not comply with this section may be retained by the credit union, but shall be disposed of at such time as is determined by the Superintendent.

(3) A credit union that has invested any part of its funds in the shares or on the security of any other corporation may appoint as proxy any one of the members of such credit union. Representation by proxy

(4) The proxy shall, during the continuance of his appointment, be deemed to be the holder of any such shares for all purposes except the transfer of such shares or the giving of receipts for any dividend thereon. 1953, c. 26, s. 33 (2-4). Extent of power of proxy

36. The board of directors of a credit union may pass resolutions for borrowing money, but at no time shall the total amount borrowed exceed 50 per cent of its capital, deposits and surplus. 1954, c. 17, s. 14, *part*. Borrowing money

37. Nothing in section 36 limits the amount that may be received on deposit from members. 1954, c. 17, s. 14, *part*. Saving

38. No resolution referred to in section 36 takes effect until it has been confirmed by a vote of not less than two-thirds of the members present or represented by proxy at a general meeting of the credit union, duly called for considering the resolution by notice specifying the terms of the resolution to be confirmed, or until unanimously sanctioned in writing by the members of the credit union, but no confirmation of any such resolution is required when the total sum borrowed does not exceed 25 per cent of the capital, deposits and surplus of the credit union. 1953, c. 26, s. 36. Must be by two-thirds vote

39.—(1) The board of directors may charge, hypothecate, mortgage or pledge the real or personal property, rights and powers, undertaking, franchises, including book debts, to secure any liability of the credit union authorized by resolution and confirmed as provided in this Act. Mortgaging assets

(2) No assignee, mortgagee, pledgee, chargee or hypothec holder is bound to inquire as to the authority for any such assignment, mortgage, pledge, charge or hypothec by a credit union, and the receipt of the credit union is a discharge for all moneys arising from or in connection with such assignment, mortgage, pledge, charge, hypothec or other security. 1953, c. 26, s. 37. Effect of receipt

40.—(1) A member of a credit union over the age of sixteen years having on deposit and as payment for shares an amount not exceeding \$500 may by a writing signed by him and deposited with the credit union nominate any person to receive the money on his death and may from time to time by a further writing signed by him and deposited with the credit union alter or revoke such nomination or substitute a new nominee to receive the money on his death. Nomination of successor

Payment to
successor

(2) Upon receiving an affidavit of the death of a member, the directors of the credit union may pay to the nominee the amount due to the deceased member. 1956, c. 13, s. 5.

Disposition
of moneys
of intestate
members

41.—(1) If a member of a credit union having on deposit and as payment for shares an amount not exceeding \$500 dies intestate without making a nomination as provided in section 40, the amount, together with any insurance moneys that may be received by the credit union under any policy of life insurance on such member, may, without letters of administration being taken out, be paid to the person who appears to the directors to be entitled thereto under *The Devolution of Estates Act* upon receiving an affidavit of the death and intestacy and that the person claiming is so entitled. 1953, c. 26, s. 39 (1); 1954, c. 17, s. 15 (1).

R.S.O. 1960,
c. 106

Payment by
mistake,
when valid

(2) When the directors, after the death of a member, have paid such amount and such insurance moneys to the person who at the time appeared to be entitled thereto under the belief that the member died intestate, without having appointed any nominee, the payment is valid and effectual with respect to any demands from any other person as next of kin or as the lawful representative of the deceased against the credit union, but the next of kin or representative is entitled to recover the amount of such payment from the person who received it. 1953, c. 26, s. 39 (2); 1954, c. 17, s. 15 (2).

Payment to
named
beneficiary

(3) If a member of a credit union who has on deposit and who has paid for shares in trust for a named beneficiary an amount not exceeding \$500 dies, the amount may be paid to the executor or administrator of his estate in trust for the beneficiary or, if no executor or administrator has been appointed, may be paid to the beneficiary. 1954, c. 17, s. 15 (3).

Unclaimed
credits

42. Where moneys are held by a credit union to the credit of one of its members by reason of a deposit made or shares held by such member and the credit union is unable after reasonable efforts to locate the person entitled to such moneys, the credit union may pay such moneys to the Treasurer of Ontario and the Treasurer of Ontario may pay such moneys to the person entitled thereto upon satisfactory proof being furnished by such person that he is the person entitled to receive such moneys. 1956, c. 13, s. 6, *part*.

Annual
meeting

43.—(1) The annual meeting of a credit union shall be held at such time and place as its by-laws provide, and in default of provisions in that behalf, the annual meeting shall

be held at its registered office on the fourth Wednesday in January.

(2) At such meeting, the board of directors shall place the following before the credit union: Business to be dealt with

1. A balance sheet made up to a date not more than three months before such meeting.
2. A statement of income and expenditure for the financial period ending upon the date of such balance sheet.
3. The report of the supervisory committee.
4. Such further information respecting the credit union's financial position as its by-laws require.

(3) The balance sheet shall be drawn up so as to distinguish at least the following classes of assets and liabilities: What balance sheet to show

1. Cash.
2. Debts owing to the credit union from its members.
3. Land and buildings.
4. Debts owing by the credit union secured by mortgage or other lien upon its property.
5. Debts owing by the credit union but not secured.
6. Amount received on shares.
7. Amount held on deposit. 1953, c. 26, s. 40.

44. At each annual meeting a credit union may by resolution upon the recommendation of the board of directors declare a dividend payable to all members at the end of the previous fiscal year on the amounts paid in on shares held by such members at any time during the year as is determined by the resolution. 1956, c. 13, s. 6, *part*. Dividends on shares held during year

45. Every credit union shall without charge supply to every member or other person interested in its funds, upon application therefor or as provided by its by-laws, a copy of its last annual balance sheet and return. 1953, c. 26, s. 41. Annual statement to be given to members

46.—(1) Except as provided in this Act, no member or other person has any right to inspect the books of a credit union. Inspection of books

Idem

(2) Any member or other person having an interest in the funds of a credit union may inspect his own account and the books containing the names of the members at all reasonable hours at its registered office or at whatever other place they are kept, subject to such conditions as to time and manner of inspection as the by-laws prescribe.

As to loan
or deposit
accounts of
members

(3) A credit union may by by-law authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, has the right to inspect the loan or deposit account of any other member without such other member's written consent. 1953, c. 26, s. 42.

Disputes

47. Every dispute not of a pecuniary character, and every dispute of a pecuniary character in which the amount involved does not exceed \$100, between a member of a credit union or a person aggrieved who has for not more than six months ceased to be a member of the credit union, or a person claiming through any such member or person, or claiming under the by-laws of the credit union, and the credit union or any officer thereof, shall be decided in the manner prescribed by its by-laws where its by-laws provide therefor. 1953, c. 26, s. 43.

Examination
by registrar:
special
meeting

48.—(1) Upon the application of one-tenth of the members of a credit union, or of 100 members in the case of a credit union having more than 1,000 members, the Superintendent may,

(a) direct the registrar to examine into and report upon the affairs of the credit union;

(b) call a special meeting of the credit union.

Notice

(2) Every such application shall be supported by such evidence as the Superintendent requires, and the Superintendent may require that notice in such form and manner as he prescribes be given to the credit union or the members thereof.

Security
for costs

(3) The Superintendent may require the applicant to furnish security for the costs of the examination or meeting.

Expenses,
how
defrayed

(4) All expenses of and incidental to the examination or meeting shall be defrayed by the persons applying therefor or out of the funds of the credit union, or by the members or

officers or former members or officers of the credit union, as the Superintendent directs.

(5) The Superintendent may direct the time and place at which the special meeting shall be held and may prescribe the matters that shall be discussed and determined at the meeting, and all the provisions of the by-laws of the credit union relating to general meetings apply to the special meeting. 1953, c. 26, s. 44.

49. A credit union shall not later than three months after the end of its fiscal year deliver to the registrar, in the form prescribed by him, an audited statement of its receipts and expenditures, assets and liabilities, and such statement shall also contain such other information as he requires. 1953, c. 26, s. 45; 1954, c. 17, s. 16; 1956, c. 13, s. 7.

50.—(1) A credit union shall furnish the registrar with such statements with respect to its business, finances and other affairs and with such other information as he requires.

(2) The statement and other information required shall be certified by the supervisory committee and shall be verified by the affidavit of the president and of the treasurer or manager.

(3) The registrar or any person authorized by the Superintendent may inspect and examine into the conditions and affairs of any credit union and shall be given access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act, and the officers and employees shall facilitate such inspection and examination.

(4) The registrar or any person authorized by the Superintendent may examine under oath officers, employees, members and members of any board of any credit union in order to obtain any information that he deems necessary for the purpose of an inspection or examination, and, upon such inspection or examination, the registrar or any person so authorized has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

R.S.O. 1960,
c. 323

(5) The registrar may, and at the request of the Superintendent shall, prepare, from statements filed by the credit unions and from inspections and examinations, a report showing particulars of the business of each credit union and every such report may be printed, and, if printed, shall be published forthwith. 1953, c. 26, s. 46.

Examination
by Superin-
tendent

51.—(1) Where it appears to the Superintendent from an examination of the condition and affairs of a credit union that any of the funds, securities or other property of the credit union may have been misappropriated or misdirected or that the records do not show the true financial position of the credit union, he may appoint an auditor or auditors to make such examination and audit of the affairs of the credit union as he considers necessary and the remuneration of any auditor or auditors so appointed shall be paid by the credit union. 1954, c. 17, s. 17, *part*.

Idem

(2) Where it appears to the Superintendent from an examination of the condition and affairs of a credit union that the assets are shown on the statement mentioned in section 49 at an amount greater than the true value, he may require the credit union to set aside out of earnings such additional reserves as he considers necessary, and where in his opinion the value of the assets of the credit union is less than its liabilities, including the share accounts of its members, the Superintendent may prohibit the credit union from taking further deposits or payments on shares from members or from making any payments to its members, or may limit such payments for such period as he deems necessary to protect the interests of the members, and he may take such other action as he deems necessary for the protection or in the interest of the members, including the calling of meetings of members and having his representative attend the meeting for the purpose of explaining the situation to the members. 1954, c. 17, s. 17, *part*; 1959, c. 21, s. 3.

Suspension
of business

(3) The Superintendent may order a credit union to discontinue doing business for such time as he determines if, after an inspection thereof, he is satisfied that the continuance in business of the credit union is not in the public interest. 1954, c. 17, s. 17, *part*.

Appeal

52.—(1) Any credit union that deems itself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal.

When to be
set down

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of.

Procedure

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

(4) The Superintendent shall certify to the Registrar of ^{Record} the Supreme Court the decision appealed from, his reasons therefor, and the documents, information and material he had before him in making such decision. 1953, c. 26, s. 48.

53.—(1) Ten or more credit unions may be incorporated ^{Incorporation of league} as a league for the object and purpose of,

- (a) protecting and advancing the credit unions that are members of the league;
- (b) encouraging and assisting educational and advisory work relating to credit unions;
- (c) arranging for group bonding of credit union employees and ensuring repayment of loans made by credit unions to their members;
- (d) receiving moneys from its members either as payment on shares or as deposits; and
- (e) making loans to credit unions that are members of the league.

(2) The president and the treasurer or manager of each such credit union shall sign in duplicate before two witnesses ^{Signature of president, treasurer or manager} a memorandum of association in the prescribed form and both copies, accompanied by the proposed by-laws, shall be forwarded to the Provincial Secretary. 1953, c. 26, s. 49 (1, 2).

(3) Upon receipt of the documents mentioned in subsection 2, the Provincial Secretary may in his discretion ^{Certificate of incorporation of league} refuse to issue a certificate of incorporation or may issue a certificate of incorporation, and upon incorporation the provisions of this Act applicable to credit unions, except where inconsistent with this section, apply *mutatis mutandis* to leagues incorporated under this section. 1959, c. 21, s. 4.

(4) The production of a copy of *The Ontario Gazette* containing the notice of incorporation of the league is conclusive ^{Evidence of incorporation of league} evidence that the league is duly incorporated. 1953, c. 26, s. 49 (4).

(5) Any league incorporated under this section may pass ^{By-laws of league} such by-laws as it deems advisable, but no by-law becomes operative until approved by the supervisor. 1953, c. 26, s. 49 (5); 1954, c. 17, s. 18.

Assessment
of members
for league

(6) A credit union that is a member of a league may by by-law provide for a yearly assessment of each of its members of an amount not to exceed \$1, which amounts shall be forwarded to the league to assist in its financing. 1953, c. 26, s. 49 (6); 1956, c. 13, s. 8.

Examination
of credit
union by
league

(7) Any competent person authorized by a league incorporated under this section may examine into the affairs of any credit union that is a member of the league and for such purpose he shall be given access to all books, records and other documents of the credit union and he may make whatever inquiries are necessary to ascertain its true condition and its ability to provide for the payment of its liabilities as they become due, and the officers and employees of the credit union shall facilitate him in his examination and inquiry.

Report to
supervisor

(8) Where, as a result of an examination under subsection 7, it appears that the assets of the credit union are shown in the statement mentioned in section 49 or in its records at an amount greater than their true value or that its records are inadequate to show its true financial position, or that it is being managed improperly, the league shall immediately report such information to the supervisor, and the league shall upon the request of the supervisor furnish him with such information as he requires regarding or resulting from the examination. 1957, c. 20, s. 2.

Dissolution

54.—(1) A credit union may by an instrument in writing signed by two-thirds of its members, or by a resolution passed by two-thirds of its members present at a general meeting called for that purpose, authorize its dissolution.

Contents
of instru-
ment or
resolution

(2) The instrument or resolution shall also set forth the liabilities and assets of the credit union, the number of its members and the nature of their respective interests in the credit union, the claims of creditors, if any, and the provision to be made for their payment, and the intended appropriation or division of the property of the credit union unless the appropriation or division is by the instrument or resolution to be left to the award of the Superintendent.

Notice of
instrument
or resolution

(3) The credit union shall send a copy of the instrument or resolution to the Superintendent and shall give notice of the instrument or resolution in *The Ontario Gazette* and in a newspaper having a general circulation in the locality in which the registered office of the credit union is situated.

Order of
dissolution

(4) Where the credit union has no liabilities and has appropriated or divided its property pursuant to the instru-

ment or resolution, the Provincial Secretary may by order declare the credit union to be dissolved on such date as the order fixes.

(5) The Provincial Secretary shall cause notice of the dissolution of the corporation to be given in *The Ontario Gazette* and shall advise the Superintendent thereof. 1953, c. 26, s. 50.

55.—(1) The Provincial Secretary may by order dissolve a credit union, if he is satisfied that,

- (a) its incorporation was obtained by fraud or mistake;
- (b) it exists for an illegal purpose;
- (c) the number of its members is reduced to less than twenty;
- (d) it is not carrying on business or is not in operation;
or
- (e) it has, after notice by the registrar, contravened any of the provisions of this Act.

(2) The Provincial Secretary shall give the credit union not less than two months notice of the proposed dissolution, specifying the reason therefor and stating that unless cause is shown to the contrary within such period it will be dissolved.

(3) At the expiration of the time mentioned in the notice, the Provincial Secretary may, unless cause to the contrary is previously shown by the credit union, by order declare the credit union to be dissolved on such date as the order fixes.

(4) The Provincial Secretary shall cause notice of the dissolution of the corporation to be given in *The Ontario Gazette* and shall advise the Superintendent thereof. 1953, c. 26, s. 51.

56.—(1) Any two or more credit unions to which this Act applies may amalgamate and continue as one credit union.

(2) The credit unions proposing to amalgamate may enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect, and stating the name of the amalgamated credit union, the names, callings and places of residence of the first directors thereof and how and when the

subsequent directors are to be elected with such other details as are necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated credit union, and the par value of each share, and the manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union.

Submission
to members
of credit
unions

(3) The agreement shall be submitted to the members of each of the amalgamating credit unions at general meetings thereof called for the purpose of considering the agreement, and, if two-thirds of the votes cast at each such meeting are in favour of the adoption of the agreement, that fact shall be certified upon the agreement by the secretary of each of the amalgamating credit unions under the corporate seal thereof.

Application
for cer-
tificate of
amalgama-
tion

(4) If the agreement is adopted in accordance with subsection 3, the amalgamating credit unions may apply jointly to the Provincial Secretary for a certificate of amalgamation.

Certificate
of amal-
gamation

(5) The Provincial Secretary may, in his discretion, issue a certificate of amalgamation, and on and after the date of the certificate such amalgamating credit unions are amalgamated and are continued as one credit union under the name set forth in the certificate, and the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, contracts, disabilities and debts of each of the amalgamating credit unions.

Notice

(6) The Provincial Secretary shall cause notice of the issue of the certificate of amalgamation to be given in *The Ontario Gazette* and to the Superintendent. 1953, c. 26, s. 52.

Sale and
purchase
of assets

57.—(1) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance with this section.

Purchase
price

(2) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares to the selling credit union or the members thereof whether or not such members are members of the purchasing credit union.

Agreement

(3) The selling credit union shall enter into an agreement with the purchasing credit union containing the terms and conditions of the sale, and the selling credit union shall within one month after the agreement is signed file a copy thereof with the Superintendent for his approval.

(4) If and when the agreement is approved by the Superintendent, each of the credit unions shall submit it to a meeting of its shareholders of which due notice has been given to all shareholders stating the purpose for which the meetings are called. Submission of agreement to shareholders

(5) If the agreement is approved by the shareholders of each of the credit unions by at least a three-fourths vote of the shareholders present at each meeting, the secretary of each credit union shall certify on the agreement that it has been so approved and shall forward a copy of the agreement so certified to the Superintendent. Approval by shareholders

(6) Upon the approval of the shareholders of each of the credit unions, the agreement is binding on each of the credit unions and the sale shall thereafter be completed as of the effective date specified in the agreement, which shall be a date subsequent to the approval by the shareholders of each of the credit unions. Effect of approval

(7) In the event the agreement does not specify an effective date, the Superintendent may fix a date upon which it will become effective. Effective date

(8) If the selling credit union has disposed of all its assets under the agreement, it shall cease to carry on business on the effective date of the agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter. 1959, c. 21, s. 5. Where all assets disposed of

58. Where proceedings are taken under the *Winding-up Act* (Canada) in respect of a credit union, the secretary shall send notice thereof to the registrar by registered mail. 1953, c. 26, s. 53. Notice of winding-up proceedings R.S.C. 1952, c. 296

59.—(1) Every credit union that fails to comply with any of the provisions of this Act or the regulations or which makes any return or furnishes any information required to be made or furnished under this Act or the regulations containing any false statement is guilty of an offence. Offences, of credit unions

(2) Every offence by a credit union under this Act shall be deemed to have been also committed by every officer of the credit union who is bound by its by-laws to fulfill the duty whereof such offence is a breach, or, if there be no such officer, then by every member of the board of directors unless such member is found to have been ignorant of, or to have attempted to prevent the commission of, such offence, and of officers and others

every act or default under this Act constituting an offence, if continued, constitutes a new offence in every week during which it continues. 1953, c. 26, s. 54 (1, 2).

Penalty

(3) Any credit union or other person guilty of an offence under this Act is liable on summary conviction to a fine of not less than \$20 and not more than \$200 for every such offence. 1953, c. 26, s. 54 (3), *amended*.

Regulations

60. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the procedure and forms to be used under this Act; 1953, c. 26, s. 55, cl. (a).
- (b) providing and prescribing the fees payable for incorporation of credit unions and credit union leagues, for amalgamation of credit unions, for changing the name of credit unions, for filing any memorandum of association, return or other document required or permitted to be filed under this Act, for searches, and for certified copies of certificates of incorporation and other documents; 1954, c. 17, s. 19.
- (c) respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted;
- (d) governing credit unions and leagues of credit unions;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1953, c. 26, s. 55, cls. (c-e).

Application
of Act

61.—(1) This Act, except in so far as it is otherwise expressly declared, applies to,

- (a) co-operative credit societies incorporated under *The Co-operative Credit Societies Act*, being chapter 64 of the Statutes of Ontario, 1922;
- (b) co-operative credit societies and credit unions incorporated under *The Co-operative Credit Societies Act*, being chapter 258 of the Revised Statutes of Ontario, 1937, or *The Credit Unions Act*, being chapter 258 of the Revised Statutes of Ontario, 1937;
- (c) credit unions incorporated under *The Credit Unions Act*, 1940;

- (d) credit unions incorporated under *The Credit Unions Act*, being chapter 79 of the Revised Statutes of Ontario, 1950;
- (e) credit unions incorporated under *The Credit Unions* 1953, c. 26 *Act, 1953*;
- (f) credit unions incorporated under this Act;
- (g) credit union leagues incorporated under *The Credit Unions Act, 1953*; and
- (h) credit union leagues incorporated under this Act. 1953, c. 26, s. 56 (1), *amended*

(2) Every co-operative credit society incorporated under *The Co-operative Credit Societies Act*, being chapter 64 of the Statutes of Ontario, 1922, or *The Co-operative Credit Societies* ^{Certain societies} *Act*, being chapter 258 of the Revised Statutes of Ontario, 1937, shall for the purposes of this Act be deemed a credit ^{deemed credit} _{unions} union. 1953, c. 26, s. 56 (2).

CHAPTER 80

The Crown Administration of Estates Act

1. Where in the case of a person dying intestate or intestate as to some part of his estate it appears that in respect of the interest of Her Majesty administration may be rightfully granted to her nominee, a competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of Her Majesty. R.S.O. 1950, c. 80, s. 1.

Where ad-
ministration
may issue
to Public
Trustee

2. Where a person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are infants and there is no near relative in Ontario willing and competent to apply for a grant of administration or to nominate some person to apply for such a grant, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and a competent court upon the application may grant administration to the Public Trustee for the use and benefit of Her Majesty or of such persons as ultimately appear to be entitled thereto, but, where there are adult next of kin residing out of Ontario, administration may be granted to the nominee of such next of kin at the discretion of the court. R.S.O. 1950, c. 80, s. 2.

Administra-
tion where
intestate
leaves no
known adult
next of kin
in Ontario

3.—(1) Notice of every application for letters of administration of the estate of a person who has died in Ontario intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within thirty days after the receipt of the notice, apply for a grant of letters of administration as provided in section 2.

Notice to
Public
Trustee

(2) Where the Public Trustee consents, letters of administration may issue to the applicant without waiting for the expiry of thirty days. R.S.O. 1950, c. 80, s. 3.

Letters of
administra-
tion within
30 days

4. It is not necessary for the Public Trustee to give security for the due administration of the estate, but he has all the rights and powers of and is subject to all the liabilities and duties imposed on an administrator. R.S.O. 1950, c. 80, s. 4.

Security dis-
penssed with

Power to sell
the real
estate of the
intestate

5. Where administration is granted to the Public Trustee, the Lieutenant Governor in Council may direct the sale, by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee is thereupon authorized to sell in accordance with the directions of the order in council the whole or any part of the real estate or interest and to convey it to the purchaser, and every conveyance by the Public Trustee is as valid and effectual as if the deceased were alive at the time of its making and had executed it. R.S.O. 1950, c. 80, s. 5.

Rights of
relatives
after the
issue of ad-
ministration

6. Where after the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and, notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance, and, until the revocation of the letters granted, the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1950, c. 80, s. 6.

Inquiry as to
the rights of
Her Majesty

7. Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as are necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin or otherwise, and any judgment pronounced upon such inquiry is, unless reversed on appeal or varied upon a substantive application to the court, final and conclusive. R.S.O. 1950, c. 80, s. 7.

Recovery by
Crown of
real estate of
persons
dying intes-
tate and
without heirs

8. Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs, the Public Trustee without obtaining letters of administration may take possession of such real estate, and if necessary may bring an action, either in his own name, on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of such real estate and is entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1950, c. 80, s. 8.

9. Where a person has died intestate in Ontario and administration has been granted to a person not one of the next of kin and it is doubtful whether the intestate left any next of kin surviving him or there are no known next of kin resident in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and a competent court may revoke such administration and grant administration to the Public Trustee. R.S.O. 1950, c. 80, s. 9.

Application
by Public
Trustee to
compel an
account by
administra-
tor in certain
cases

10. Money realized from estates to which the Public Trustee is administrator under this Act or that he has recovered under section 8 shall be kept in such bank or invested in such manner as the Lieutenant Governor in Council directs, and all such money that has been unclaimed for ten years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1950, c. 80, s. 10.

Disposition
of moneys

11. Any person proving title to such money is entitled to receive it with interest at such rate as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 80, s. 11.

Interest on
money
claimed

12. Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights with respect thereto, and the court may direct such inquiries as are necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands security. R.S.O. 1950, c. 80, s. 12.

Remedy of
persons
having
claims upon
the estate

13. The Public Trustee may deduct from the money received on account of an estate all disbursements made by him in respect of inquiries that he made before taking out letters of administration, as well as disbursements otherwise made by him in respect of the estate, and a commission for his services not exceeding 5 per cent of all moneys received by him as administrator. R.S.O. 1950, c. 80, s. 13.

Right of
Public
Trustee
to disburse-
ments and
commission

14.—(1) After having given the notice provided for by *The Trustee Act* and notwithstanding that the ten years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining unclaimed in his hands into the Consolidated Revenue Fund, or may pay the money or

Distribution
of assets by
Public
Trustee
R.S.O. 1960,
c. 408

any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieu-

R.S.O. 1960, c. 123, tenant Governor in Council made under *The Escheats Act*.

Non-liability
of Her
Majesty
and the
Province

(2) In such case, no claim shall be maintained against Her Majesty or the Province in respect of any money or personal property paid over or assigned to any person under *The Escheats Act* or under this Act, but this does not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who has received the same under the authority of an order in council. R.S.O. 1950, c. 80, s. 14.

CHAPTER 81

The Crown Agency Act

1. In this Act, "Crown agency" means a board, commission, railway, public utility, university, manufactory, company or agency owned, controlled or operated by Her Majesty in right of Ontario, or by the Government of Ontario, or under the authority of the Legislature or the Lieutenant Governor in Council. 1959, c. 22, s. 1.

Interpre-
tation

2. A Crown agency is for all its purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. 1959, c. 22, s. 2.

Status of
Crown
agency

3. This Act does not affect The Hydro-Electric Power Commission of Ontario. 1959, c. 22, s. 3.

H.E.P.C.
not
affected

CHAPTER 82

The Crown Attorneys Act

1. The Lieutenant Governor in Council may appoint a ^{Appointment} Crown attorney for each county and for each provisional judicial district. R.S.O. 1950, c. 81, s. 1.

2. The Lieutenant Governor in Council may appoint one ^{Assistant Crown attorneys} or more assistant Crown attorneys for any county or provisional judicial district who shall act under the direction of the Crown attorney and when so acting has the like powers and shall perform the like duties as the Crown attorney. R.S.O. 1950, c. 81, s. 2.

3. The City of Toronto and the County of York shall ^{Toronto and York} have one Crown attorney who shall be known as the Crown Attorney for the City of Toronto and the County of York, and such assistant Crown attorneys as are deemed necessary by the Lieutenant Governor in Council. R.S.O. 1950, c. 81, s. 14 (1).

4. No person shall be appointed a Crown attorney or ^{Qualifica-} assistant Crown attorney or act in either of such capacities who is not a member of the bar of Ontario. R.S.O. 1950, c. 81, s. 3.

5.—(1) Where the Crown attorney is unavoidably absent ^{Pro tem appointment} or ill and there is no assistant Crown attorney, a judge of the county or district court for the county or district may appoint a member of the bar of Ontario to act for the Crown attorney during his absence or illness.

(2) Notice of the appointment containing a statement ^{Notice} as to the cause thereof shall be sent by the judge to the Attorney General forthwith after making the appointment.

(3) The Lieutenant Governor in Council may annul any ^{Power to annul} such appointment at any time. R.S.O. 1950, c. 81, s. 4.

6.—(1) Except in the County of York, every Crown ^{Clerk of the peace} attorney is *ex officio* clerk of the peace for the county or district for which he is Crown attorney.

York
County

(2) In the County of York, the offices of Crown attorney and clerk of the peace may be held by different persons.

Court
duties

(3) Where the offices of Crown attorney and clerk of the peace are held by the same person, the duties that the clerk of the peace is required to perform in the court room during the sittings of the court of general sessions of the peace and of the county or district court judges' criminal court shall be performed by the clerk of the county or district court. R.S.O. 1950, c. 81, s. 5.

Fees

7.—(1) Unless it is otherwise provided by the Lieutenant Governor in Council, every Crown attorney is entitled to the fees of his office, including the fees received from his office as clerk of the peace.

Commuta-
tion of fees

(2) The Lieutenant Governor in Council may commute the fees payable to a Crown attorney, including the fees receivable from his office as clerk of the peace, for a fixed annual sum, and may from time to time fix an annual allowance to cover the expenses of his office.

Assistants

(3) Every assistant Crown attorney is entitled to such per diem allowance or such salary as is fixed by the Lieutenant Governor in Council.

Pro tem
Crown
attorneys

(4) Every Crown attorney appointed *pro tem* by a judge of a county or district court is entitled to the fees of his office, including the fees receivable from his office as clerk of the peace. R.S.O. 1950, c. 81, s. 6.

Agreement
for fixed
sum in
lieu of fees

8.—(1) A Crown attorney and the county for which he is appointed or any local municipality in the county may make an agreement for the payment to him by the county or the local municipality, as the case may be, of a fixed annual sum in lieu of all fees to which he is entitled as Crown attorney or as clerk of the peace or in both capacities. 1957, c. 21, s. 1.

Approval of
Attorney
General

(2) A full-time Crown attorney on salary shall not enter into an agreement under subsection 1 without the approval of the Attorney General thereto.

Termination

(3) Either party to an agreement under subsection 1 may terminate it on the 31st day of December in any year by giving the other party one month's notice in writing of the intention so to do.

York
County

(4) If the offices of Crown attorney and clerk of the peace in the County of York are held by different persons, this

section applies *mutatis mutandis* to each of them. 1954, c. 18, s. 1, *part*.

9.—(1) A Crown attorney on salary and the county for ^{Agreement} which he is appointed may, with the approval of the Attorney ^{for} General, make an agreement for the payment to him by the ^{expenses} county in respect of the expenses of his office for which the county is not responsible, in respect of his salary and in respect of the salaries or other remuneration of the members of his staff in lieu of all fees to which he is entitled as Crown attorney or as clerk of the peace or in both capacities and that are chargeable by him to the county.

(2) Either party to an agreement under subsection 1 ^{Termination} may terminate it on the 31st day of December in any year by giving the other party one month's notice in writing of the intention so to do.

(3) If the offices of Crown attorney and clerk of the peace ^{York} in the County of York are held by different persons, this ^{County} section applies *mutatis mutandis* to each of them. 1957, c. 21, s. 2.

10. Every Crown attorney shall give security for the due ^{Security} performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 81, s. 7.

11. Every Crown attorney and every assistant Crown ^{Oath of} attorney, before he enters upon his duties, shall take and ^{office} subscribe before a judge of the county or district court of the county or district for which he is appointed the following oath:

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney (*or* assistant Crown attorney) for the County (*or* District) of.....without favour or affection to any party: So help me God.

R.S.O. 1950, c. 81, s. 8.

12. No Crown attorney or assistant Crown attorney shall, ^{Prohibition} by himself or through any partner in the practice of law, act or be directly or indirectly concerned as counsel or solicitor for any person in respect of any offence charged against such person under the laws in force in Ontario. R.S.O. 1950, c. 81, s. 9.

Attorney-
General's
agent
1953-54,
c. 51 (Can.)

13. Every Crown attorney is the agent of the Attorney General for the purposes of the *Criminal Code* (Canada). 1955, c. 13, s. 1.

Duties:

14. The Crown attorney shall aid in the local administration of justice and perform the duties that are assigned to Crown attorneys under the laws in force in Ontario, and, without restricting the generality of the foregoing, every Crown attorney shall,

to examine
informa-
tions, etc.

(a) examine informations, examinations, depositions, recognizances, inquisitions and papers connected with offences against the laws in force in Ontario that the magistrates, justices of the peace and coroners are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions may not be delayed unnecessarily or fail through want of proof;

to conduct
prosecutions

(b) conduct, on the part of the Crown, preliminary hearings of indictable offences and prosecutions for indictable offences,

(i) at the sittings of the Supreme Court where no law officer of the Crown or other counsel has been appointed by the Attorney General,

(ii) at the court of general sessions of the peace,

(iii) at the county or district court judges' criminal court, and

(iv) before magistrates in summary trials of indictable offences under the *Criminal Code* (Canada),

1953-54,
c. 51 (Can.)

in the same manner as the law officers of the Crown conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at such courts;

special
Crown
counsel

(c) where a law officer of the Crown or other counsel has been appointed by the Attorney General, deliver to the Crown officer or other counsel all papers connected with the criminal business at the sittings

of the Supreme Court before the opening of the court and, if required, be present at the court and assist the Crown officer or other counsel;

- (d) watch over cases conducted by private prosecutors and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;
cases brought by private prosecutors
- (e) where in his opinion the public interest so requires, conduct proceedings in respect of any offence punishable on summary conviction;
summary conviction matters
- (f) when requested in writing, cause prosecutions for offences against any Act of the Legislature to be instituted on behalf of any governmental department or agency and conduct such prosecutions to judgment and to appeal, if so instructed;
government prosecutions
- (g) where in his opinion the public interest so requires, conduct appeals to the county or district court for offences punishable on summary conviction;
summary conviction appeals
- (h) advise justices of the peace with respect to offences against the laws in force in Ontario;
justices of the peace
- (i) procure the necessary forms for the use of justices of the peace, and supply them as needed, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace; and
forms
- (j) where a prisoner is in custody charged with or convicted of an offence and an application is made for bail, inquire into the facts and circumstances and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of the bail bonds where bail is ordered. R.S.O. 1950, c. 81, s. 10.
bail

15. Where a person is committed for trial to answer a criminal charge, the committing magistrate shall deliver or cause to be delivered without delay to the Crown attorney the informations, depositions, examinations, recognizances and papers connected with the charge, and the Crown attorney
Magistrates and justices to deliver informations, etc., to Crown attorney

1953-54,
c. 51 (Can.)

the "proper officer of the court by which the accused is to be tried" within the meaning of the committal for trial provisions of the *Criminal Code* (Canada) and, where an information has been laid before a justice of the peace, whether proceedings have been taken thereon or not, the justice shall deliver to the Crown attorney all papers connected therewith on being required by him so to do. R.S.O. 1950, c. 81, s. 11, *amended*.

Collection
and pay-
ment over
of fees

16. Every Crown attorney, except a Crown attorney on fees, shall collect all fees payable to him as Crown attorney and clerk of the peace and remit them to the Inspector of Legal Offices by cheque payable to the Treasurer of Ontario quarterly on the 1st day of January, April, July and October in each year, together with a statement showing the fees collected. R.S.O. 1950, c. 81, s. 12; 1957, c. 21, s. 3.

Annual
returns

17. Every Crown attorney and clerk of the peace shall, on or before the 31st day of January in every year, make to the Inspector of Legal Offices a return, verified by statutory declaration, of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. R.S.O. 1950, c. 81, s. 13.

Regulations

18. The Lieutenant Governor in Council may make regulations,

- (a) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with prosecutions instituted on behalf of any governmental department or agency, and providing for the payment and disposition thereof;
- (b) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with appeals to the county or district court for offences punishable on summary conviction, and providing for the payment thereof;
- (c) fixing the responsibility for the payment of fees and travelling allowances of Crown attorneys;
- (d) providing that counsel fees collected from defendants under *The Summary Convictions Act* shall be credited on the Crown attorney's fees that are properly payable to him by a municipality or a governmental department or agency;

R.S.O. 1960,
c. 387

- (*e*) providing fees and charges payable to Crown attorneys not otherwise provided for under this or any other Act, and providing for the payment thereof;
 - (*f*) for carrying out the provisions of any Act imposing duties upon or touching the office of Crown attorney;
 - (*g*) with respect to the prosecution by Crown attorneys of offenders against the laws in force in Ontario;
 - (*h*) providing for the safe-keeping, inspection and destruction of books, documents and papers of Crown attorneys;
 - (*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 81, s. 15; 1958, c. 19, s. 1; 1960, c. 17, s. 1.
-

CHAPTER 83

The Crown Timber Act**1.** In this Act,Interpre-
tation

- (a) “Crown charges” includes all charges and dues in respect of Crown timber, interest, costs, expenses and penalties imposed under this Act or the regulations or by a licence, and all other charges, rents and claims of the Crown in connection with a licensed area;
- (b) “Crown timber” means timber on public lands or timber that is the property of the Crown under the management of the Minister on lands other than public lands;
- (c) “cull” means a defective log as defined by the manual of scaling instructions;
- (d) “Department” means the Department of Lands and Forests;
- (e) “licence” means a document heretofore or hereafter granted that authorizes the cutting of Crown timber;
- (f) “licensed area” means the lands upon which the right to cut Crown timber is authorized by a licence;
- (g) “licensee” means a person to whom a licence has been granted or to whom a licence has been assigned with the consent of the Minister or in whom a licence has become vested by operation of law;
- (h) “mill” means a plant in which logs or wood-bolts are initially processed, and includes a saw mill and a pulp mill;
- (i) “Minister” means the Minister of Lands and Forests;
- (j) “officer or agent” means a person employed or appointed to assist in the administration of this Act;

(k) "public lands" means the lands vested in Her Majesty in right of Ontario and under the management of the Minister, and includes the lands in respect of which a lease, licence of occupation or permit has been granted or issued under *The Mining Act*, *The Provincial Parks Act* or *The Public Lands Act*;

R.S.O. 1960,
cc. 241, 314,
324

(l) "regulations" means the regulations made under this Act;

(m) "unproductive lands" means rock barrens, muskeg or lands covered by water. 1952, c. 15, s. 1; 1960, c. 18, s. 1.

LICENCES TO CUT CROWN TIMBER

Sale of
Crown
timber by
tender

2.—(1) The Minister may offer Crown timber for sale by tender either,

(a) to the public generally; or

(b) to any particular class or group of persons who in his opinion are or may be interested in such timber as a source of supply of raw materials for mills in existence at the time the offer is made.

Licences
to cut Crown
timber

(2) The Minister may grant a licence to cut such timber to the person making the highest tender therefor for such period as he deems proper, subject to such terms and conditions as are prescribed by the regulations and subject to such other terms and conditions as he deems proper and that are not inconsistent with the regulations.

Acceptance
of tenders

(3) The Minister is not obliged to accept the highest tender.

Renewal of
licences

(4) If the cutting of the timber in respect of which a licence is granted is not completed during the term of the licence, the Minister may renew the licence for one further term not exceeding three years, subject to such terms and conditions as are prescribed by the regulations and subject to such other terms and conditions as he deems proper and that are not inconsistent with the regulations.

Licences
if charges
not more
than \$1,000

(5) Notwithstanding subsection 1, the Minister may grant licences to cut Crown timber at such rates and subject to such terms and conditions as he deems proper, if the Crown charges payable for such timber do not exceed \$1,000. 1952, c. 15, s. 2.

3.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may grant licences to cut Crown timber for such periods and subject to such terms and conditions as are prescribed by the regulations and at such prices and subject to such other terms and conditions as the Minister deems proper and that are not inconsistent with the regulations.

Licences
granted with
approval of
Lieutenant
Governor in
Council

(2) Where a licence to cut Crown timber is granted under subsection 1, the Minister may,

Terms and
conditions

- (a) determine from time to time the prices at which species of timber may be cut where the prices for such species are not specifically set out in the licence; and
- (b) grant to a licensee from time to time during the term of the licence rights to cut on the licensed area additional species not set out in the licence at such prices and upon such terms and conditions as he deems proper. 1952, c. 15, s. 3.

4. The Minister, with the approval of the Lieutenant Governor in Council, may designate any public lands as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon. 1956, c. 14, s. 1.

Crown
management
unit

5.—(1) Where Crown timber in respect of which a licence has not been granted has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he deems proper.

Salvage
licences

(2) Where Crown timber in respect of which a licence has been granted has been killed or damaged, the Minister may direct the licensee to cut such timber and any other timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he deems proper.

Direction to
licensee to
cut killed
or damaged
timber

(3) Where a licensee refuses or neglects to comply with a direction of the Minister under subsection 2 within such time as is fixed by the Minister, the Minister may cancel or vary the licence in respect of the timber directed to be cut and may grant licences to persons other than the licensee

Failure or
neglect of
licensee

to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he deems proper. 1952, c. 15, s. 4.

Area to be
stated

6.—(1) Every licence shall state the total area of the lands comprised therein and the area of the unproductive lands included in such total area.

Unproduc-
tive lands

(2) Crown charges for fire protection and ground rent are not payable in respect of unproductive lands. 1952, c. 15, s. 5.

Survey

7.—(1) The Minister may at any time cause a survey to be made to establish or re-establish the boundaries of any licensed area and the cost of such survey shall be borne by the licensee or, where the boundary in question is a division line between two licensed areas, the cost of such survey shall be borne by the respective licensees in such proportions as the Minister deems proper. 1952, c. 15, s. 6.

Idem

(2) Where it appears that Crown timber has been cut without the authority of a licence and there is a dispute as to the boundaries of the area of the cutting, the Minister may cause a survey to be made to establish or re-establish such boundaries, and, where as a result of the survey it is established that Crown timber was cut without authority, the cost of the survey, in addition to any penalty that may be imposed, shall be borne by the person responsible for such cutting. 1956, c. 14, s. 2.

Species and
lands to be
described

8.—(1) Every licence shall name the species of timber and describe the lands upon which such timber may be cut.

Conflicting
licences

(2) If a licence is found to comprise a species of timber or lands included in an earlier licence, the later licence is void in so far as it conflicts with the earlier licence, and the person holding the later licence has no claim against the Minister for indemnity or compensation by reason thereof. 1952, c. 15, s. 7.

Rights of
licensee in
area
limited

9. A licence does not confer on the licensee any right to the soil or freehold of the licensed area or to the exclusive possession thereof except as is in the opinion of the Minister necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto. 1952, c. 15, s. 8.

10.—(1) Subject to the payment of Crown charges, the property in all timber of the species set out in a licence and cut during the term of the licence vests in the licensee at the time the timber is cut. Effect of licence

(2) Crown charges in respect of all timber of the species set out in the licence cut on a licensed area during the term of the licence shall be paid by the licensee whether the timber is cut by the licensee or by any other person with or without his consent. 1952, c. 15, s. 9. Crown charges to be paid

11.—(1) Every licence entitles the licensee to seize all timber of the species set out in the licence cut on the licensed area during the term of the licence wherever the timber is found in the possession of a person not entitled thereto and to maintain an action against a person wrongfully cutting or damaging or having wrongful possession of the timber. Rights of licensee in his timber

(2) All proceedings pending at the expiration of a licence may be continued to final termination as if the licence had not expired. 1952, c. 15, s. 10. Continuation of proceedings

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence is granted a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly granted by the licence. Timber on patented lands

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence is granted have been located or sold under *The Public Lands Act*. 1952, c. 15, s. 11. No rights to cut on located or sold lands
R.S.O. 1960, c. 324

13.—(1) No licensee shall commence cutting operations in any year until the Minister has approved in writing the area in which the cutting operations are to be carried on in that year. 1952, c. 15, s. 12. Commencement of cutting operations

(2) Where a licensee is in default of any Crown charges, the Minister may withhold the approval mentioned in subsection 1 until the charges are paid. 1956, c. 14, s. 3. Default of charges

14.—(1) Every licence is subject to the condition that all timber cut thereunder, except timber that is used in Canada in an unmanufactured state for fuel, building or other purposes, shall, except as provided in subsection 2, be manufactured in Canada into ties, poles, pit props, lumber, veneer or such like products or into pulp. Timber to be manufactured in Canada

Power to
suspend
operation of
subs. 1

(2) The Lieutenant Governor in Council, after giving thirty days notice of his intention so to do by publication in *The Ontario Gazette*, may suspend the operation of subsection 1 as to any kind or class of timber that he designates for such period as he deems proper and as to any area that he defines. 1952, c. 15, s. 13.

Certificate
and
affidavit or
declaration

15. Every person who applies to the Department for a customs clearance document relating to the export of timber shall make a statement by affidavit or by statutory declaration respecting the timber in such form as the Minister prescribes. 1956, c. 14, s. 4.

Assignment,
etc., of
licences

16.—(1) A licence shall not be assigned, pledged or charged without the consent in writing of the Minister and permission to cut timber on a licensed area shall not be granted by a licensee without the consent in writing of the Minister, and he is not under any circumstances bound to give such consent and he may impose such terms and conditions as he deems proper.

Consent of
Minister

(2) An assignment, pledge or charge of a licence or permission to cut on a licensed area does not have any force or validity unless the Minister has consented thereto in writing. 1952, c. 15, s. 14.

Records

17. Every licensee shall keep in connection with every cutting operation such records relating to the quantity of timber cut as are required by the Minister and such records shall be open at all times to the inspection of any officer or agent and shall at the end of each cutting season be delivered to an officer or agent. 1952, c. 15, s. 15; 1956, c. 14, s. 5.

Additional
powers

18. Notwithstanding the granting of a licence, the Minister may,

(a) subject to this Act, dispose of any Crown timber not expressly mentioned in the licence; and

(b) after thirty days written notice to the licensee specifying the action proposed to be taken and giving him an opportunity to be heard, sell, lease, grant or otherwise dispose of any public lands included in a licensed area for any purpose for which public lands may be disposed of under *The Public Lands Act*, and upon such sale, lease or grant being made all rights of the licensee in respect of the timber on such lands cease. 1952, c. 15, s. 16.

LIEN FOR CROWN CHARGES AND SEIZURE OF TIMBER

19. All Crown charges are a lien and charge upon timber cut by a licensee under the authority of any licence and upon any product manufactured from such timber in preference and priority to any and all other fees, charges, liens or claims whatsoever. 1952, c. 15, s. 17; 1956, c. 14, s. 6.

Lien for
Crown
charges

20.—(1) Any officer or agent may seize and detain any timber and any product manufactured from such timber,

Seizure of
timber and
products

- (a) where the person for the time being in possession or control of the timber or product refuses or fails to inform the officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber or product; or
- (b) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured has not been measured or counted by a scaler as required by this Act; or
- (c) where the officer or agent believes on reasonable grounds that Crown charges are owing by the licensee in respect of the timber or the timber from which the product was manufactured or any other timber; or
- (d) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured was not cut under the authority of a licence. 1952, c. 15, s. 18 (1); 1956, c. 14, s. 7.

(2) Any timber or product that is seized under subsection 1 may be removed to such place as the officer or agent deems proper for the protection of the timber or product and, if it is seized when in possession of a carrier, it shall be removed by the carrier on behalf of the Minister to such place as the officer or agent may direct, but

Removal
of seized
timber and
products

- (a) the Minister is liable for transportation and all other proper charges incurred in consequence of the directions given by the officer or agent; and
- (b) such seizure does not prejudice or affect any lien to which the carrier is entitled in respect of the timber or product up to the time of such seizure.

Timber
mixed with
other timber

(3) Where timber liable to seizure under this section has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at a mill or elsewhere as to render it impractical or difficult to distinguish such timber from other timber with which it is mixed, the whole of the timber so mixed may be seized and detained. 1952, c. 15, s. 18 (2, 3).

Forfeiture
of seized
timber and
products

21. Where timber or any product manufactured therefrom has been seized and no claim to recover it is made within thirty days from the date of the seizure, the timber or product shall be deemed to be forfeited to and becomes the property of the Crown and may be dealt with in such manner as the Minister directs. 1952, c. 15, s. 19.

Notice of
lien

22. Where timber or any product manufactured therefrom is subject to a lien and charge under section 19 and is under seizure or attachment by a sheriff or a bailiff of a court, or is claimed by or is in the possession of any assignee for the benefit of creditors, or any liquidator, or any trustee in bankruptcy, or where such timber or product has been converted into cash that has been distributed, the Minister may give to the sheriff, bailiff, assignee, liquidator or trustee in possession of such timber or product, or cash, notice of the amount due or owing under such lien and charge, and thereupon the sheriff, bailiff, assignee, liquidator or trustee shall pay the amount so due or owing to the Treasurer of Ontario in preference to and in priority over all other fees, charges, liens or claims whatsoever. 1952, c. 15, s. 20.

PROCEEDINGS FOLLOWING SEIZURE OF TIMBER

Order for
release from
seizure

23.—(1) A person claiming to be the owner of timber or a product manufactured therefrom that has been seized under this Act, upon at least four days notice to the Minister, may apply to a judge of the county or district court of the county or district in which the timber or product is held under seizure for an order for its release from seizure and its delivery to him.

Order for
release and
delivery to
claimant

(2) Upon receipt of a bond of the claimant, with two good and sufficient sureties, in an amount not less than the market value of the timber or product and the expenses of the seizure, to be forfeited to the Crown if the claimant is declared by the judge not to be the owner of the timber or product, the judge may order the timber or product to be released from seizure and to be delivered to the claimant.

(3) Upon the application of the Minister or the claimant, ^{Order as to ownership} and upon at least seven days notice, the judge shall determine the ownership of the timber or product whether or not it has been released and delivered to the claimant under subsection 2 and shall make an order,

(a) declaring the claimant to be the owner,

(i) free of any claim for Crown charges, or

(ii) subject to payment of such Crown charges and expenses as he finds to be owing; or

(b) declaring the claimant not to be the owner and the bond, if any, forfeited to the Crown.

(4) The judge shall make such order as he considers proper ^{Costs of proceedings} as to the costs of proceedings under this section and the expenses of seizure.

(5) If the claimant is declared not to be the owner of the ^{Disposal} timber or product, it shall be disposed of in such manner as the Minister determines. 1952, c. 15, s. 21.

FOREST MANAGEMENT

24.—(1) Every licensee shall furnish to the Minister ^{Inventory and master plan to be furnished} within such period as is fixed by him, not exceeding three years from the grant of his licence,

(a) an estimated inventory of the timber on the licensed area, classifying the timber as to age, species, size and type;

(b) a proposed master plan for managing the licensed area and producing timber therefrom;

(c) a map, which shall form part of the master plan, dividing the licensed area into proposed operational units; and

(d) a statement of the purposes for which the timber is to be utilized.

(2) The Minister may approve a master plan as submitted ^{Approval of master plan} to him or may approve it with such alterations therein as he deems advisable.

Master plan
to govern

(3) Where there is conflict between an approved master plan and a licence, the provisions of the master plan govern.

Management
of area
according
to plan

(4) Subject to sections 25 and 26, a licensee who has furnished a master plan shall manage the licensed area and produce timber therefrom and utilize it in accordance with the plan as approved. 1952, c. 15, s. 22.

Information
to be fur-
nished
annually

25.—(1) Every licensee shall furnish to the Minister,

(a) at least sixty days before cutting operations commence in each year, but not later than the 15th day of June, an annual plan for the cutting operations to be conducted by him during the twelve-month period commencing on the 1st day of April in that year, together with a statement of the measures to be taken by him from time to time during the term of his licence to promote and maintain the productivity of the areas cut over in accordance with such annual plan; and

(b) not later than the 31st day of October in each year a map showing the areas cut over during the twelve-month period ending on the 31st day of March of that year together with a statement of the amount, species and size of timber cut from each cutting area during such period. 1952, c. 15, s. 23 (1); 1954, c. 19, s. 1 (1).

Alteration
in plan

(2) The Minister may approve an annual plan or may approve it with such alterations as he deems advisable, and, where the alterations involve the alteration of an approved master plan, the master plan shall be deemed to be altered accordingly.

Cutting
operations

(3) Cutting operations in each year shall be conducted in accordance with the approved annual plan. 1952, c. 15, s. 23 (2, 3).

Measures
to promote
and main-
tain pro-
ductivity

(4) The Minister may, in addition to the measures to be taken by a licensee as set forth in the statement referred to in clause *a* of subsection 1, require at any time such further or other measures to be taken by the licensee as the Minister considers advisable to promote and maintain the productivity of the areas cut over in accordance with the annual plan. 1954, c. 19, s. 1 (2).

Preserva-
tion of
forests,
etc.

26.—(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any master plan, the Lieutenant Governor in Council, having

regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him.

(2) Notwithstanding anything in any general or special ^{Idem} Act or in any regulation or in any licence or in any master plan, the Minister may,

- (a) limit the cutting of the timber included in any licence in respect of the size, age, quality, species, types and distribution thereof as he deems consistent with the best forestry practices;
- (b) determine the species and quantities of Crown timber that may be cut by any licensee for the manufacture of lumber, pulp, paper or other products; and
- (c) for the purpose of forest management, watershed protection, fire protection, or the preservation of beauty of landscape, game preserves or game shelters, direct the marking of trees to be left standing or to be cut in any area designated by him, and direct the licensee to pay the cost of such marking.

(3) Any action by the Lieutenant Governor in Council ^{Idem} under subsection 1 or any action by the Minister under subsection 2 in respect of matters other than fire protection does not affect operations being carried out or to be carried out pursuant to an approved annual plan. 1952, c. 15, s. 24.

27. No person shall commit wasteful practices in forest ^{Wasteful practices} operations. 1952, c. 15, s. 25.

28. Every licensee shall, when required by the Minister ^{Information to be furnished by licensee} and within the time specified, furnish to him in writing and under oath such information relating to the utilization, transformation or disposal of the timber cut on the licensed area and any products manufactured therefrom as he requires. 1952, c. 15, s. 26.

29. Where a licensee contravenes any provision of sections ^{Non-compliance with ss. 24-28} 24 to 28 or any order of the Minister made thereunder, the Minister may suspend the operation of the licence in whole or in part for a period not exceeding six months. 1952, c. 15, s. 27.

Idem

30. Where a licensee contravenes any provision of sections 24 to 28 or any order of the Minister made thereunder, the Lieutenant Governor in Council may,

- (a) suspend the operation of the licence in whole or in part for such period as he determines; or
- (b) cancel the licence in whole or in part. 1952, c. 15, s. 28.

Inventories, plans, maps, etc.

31. The form of inventories, plans, maps, statements and reports and the manner in which they are to be verified shall be determined by the Minister. 1952, c. 15, s. 29.

SCALERS

Boards of examiners, appointment and duties

32.—(1) The Lieutenant Governor in Council may appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

- (a) to examine and report upon the ability and knowledge of persons desiring to be licensed to measure all classes of timber;
- (b) to examine and report upon the ability and knowledge of persons desiring to be licensed to measure pulpwood; and
- (c) to perform such other duties as are assigned to them by the Lieutenant Governor in Council.

Standard and method of examination

(2) The Minister shall determine the standard and method of examination. 1952, c. 15, s. 30.

Oath of examiners

33.—(1) Every examiner, before entering upon his duties, shall take and subscribe an oath in the following form:

I,, will act as examiner of scalers to the best of my ability and knowledge, and will conduct the examination without fear, favour or affection and recommend for licences only those persons who have satisfactorily proved their fitness to discharge the duties of measuring timber. So help me God.

Transmission of oaths

(2) The oath shall be transmitted to the Minister. 1952, c. 15, s. 31.

Remuneration of examiners

34. The members of boards of examiners shall be paid such remuneration and travelling expenses as are determined by the Lieutenant Governor in Council. 1952, c. 15, s. 32.

35.—(1) Every board of examiners shall sit at such places ^{Examina-} and on such days as are determined by the Minister, and shall examine all candidates who present themselves, and at the close of the examination, or as soon after as may be, shall transmit to the Minister the names of such of the candidates as they believe are trustworthy and of good character and who on examination have satisfactorily proved their fitness to discharge the duties of measuring all classes of timber or of measuring pulpwood and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as scalers.

(2) The Minister may determine the amount of the examin- ^{Examina-} ation fee to be paid by candidates. 1952, c. 15, s. 33.

36.—(1) The Minister may issue a scaler's licence to any ^{Scalers'} person, ^{licences} ^{issue}

(a) who has been recommended by a board of examiners; and

(b) who has taken the oath prescribed by section 38,

and may designate any such licence as a licence to measure all classes of timber or a licence to measure pulpwood.

(2) Every scaler's licence expires on the 31st day of March ^{term} next following the date of the issue thereof.

(3) A scaler's licence may, upon application to the Minister, ^{renewal} be renewed from time to time either before or after the expiration thereof or of the last renewal, and every renewal expires on the 31st day of March next following the date thereof, but, where a licence has not been renewed within three years after its expiration or after the expiration of the last renewal, it shall not be further renewed. 1952, c. 15, s. 34.

37. Where a licensed scaler is not available, the Minister ^{Special} may issue a special permit to anyone whose trustworthiness ^{permits} and skill have been established by the affidavits of two responsible persons. 1952, c. 15, s. 35.

38.—(1) Before a scaler's licence or special permit is ^{Scaler's} issued, the applicant shall take an oath in the following form: ^{oath}

I,, while acting as a licensed scaler (or as holder of a special permit), without fear, favour or affection, and to the best of my judgment and skill, will measure correctly in accordance with the authorized manual of scaling instructions all Crown timber that I am employed to measure, and make true return of the same to the Department of Lands and Forests or its officer or agent. So help me God.

Transmission of oaths (2) The oath shall be transmitted to the Minister. 1952, c. 15, s. 36.

Manual of scaling instructions authorized **39.** The Minister may authorize a manual of scaling instructions prescribing the method of measuring Crown timber. 1952, c. 15, s. 37.

Duties of scalers **40.**—(1) It is the duty of every licensed scaler or holder of a special permit to measure in accordance with the authorized manual of scaling instructions all Crown timber that he is employed to measure, making only such deductions as are authorized by the manual, and to enter in a book of record, for the purpose of a return to the Department, the contents of the timber or pulpwood measured by him and the number of logs rejected as culls.

Idem (2) It is the duty of every licensed scaler or holder of a special permit to stamp upon every cull the word "cull". 1952, c. 15, s. 38.

Where timber to be measured **41.** All Crown timber shall be measured by a licensed scaler or a holder of a special permit at the place of cutting or at a concentration point adjacent to the place of cutting, and no Crown timber shall be manufactured or removed from the place of cutting or from the concentration point before being so measured, without the written authority of the Minister. 1952, c. 15, s. 39.

Measurement of pulpwood **42.**—(1) Pulpwood cut in lengths of more than eight feet shall be measured in cubic feet of solid wood and not in stacked cords.

Idem (2) Pulpwood cut in lengths of eight feet or less may be measured in cubic feet of solid wood or in stacked cords, as the Minister directs. 1952, c. 15, s. 40 (1, 2).

Idem (3) Where a licensee is required or permitted to measure pulpwood in cubic feet of solid wood he is entitled to convert 85 cubic feet of solid wood into 128 cubic feet of stacked wood. 1952, c. 15, s. 40 (3); 1956, c. 14, s. 8.

Inspection of scalers' books **43.** Every licensed scaler and every holder of a special permit shall submit his books and records of measurements of Crown timber for the inspection of any officer or agent when called upon so to do, and shall furnish all information and statements or copies of statements that the Minister or any officer or agent requires. 1952, c. 15, s. 41.

44. The Minister may suspend or cancel the licence or special permit of any scaler who undermeasures or mis-measures or improperly culls any Crown timber, or makes a false return, or fails to make a return when required. 1952, c. 15, s. 42.

Suspension
and cancel-
lation of
scalers'
licences and
permits

LICENSING OF MILLS

45.—(1) No person shall construct or operate a mill, or increase the productive capacity of a mill, or convert an existing mill into a mill of any other type, without a licence from the Minister.

Licence
required

(2) The granting of a licence under subsection 1 does not imply any obligation on the part of the Minister to make Crown timber available for the mill. 1952, c. 15, s. 43.

Effect of
licence

PROVINCIAL FORESTS

46.—(1) The tracts of land established and known as the Eastern Provincial Forest, the Timagami Provincial Forest, the Mississagi Provincial Forest, the Georgian Bay Provincial Forest, the Nipigon Provincial Forest, the Wanapitei Provincial Forest and the Kawartha Provincial Forest shall continue to be set apart and known as provincial forests under such names and shall be used primarily for the production of timber. 1952, c. 15, s. 44.

Provincial
forests

(2) Notwithstanding subsection 1, the Minister may, subject to the approval of the Lieutenant Governor in Council, sell, lease or otherwise dispose of land in a provincial forest for any purpose that is not inconsistent with the purpose of such forest or, where it is deemed expedient to establish a town site in a provincial forest, he may withdraw such land as is necessary for that purpose. 1956, c. 14, s. 9.

Idem

PENALTIES

47.—(1) Every person who,

Penalties

(a) commences cutting operations without the approval of the Minister under section 13, or who carries on cutting operations beyond the limits of the area approved by the Minister under section 13, is liable to a penalty of not less than twice and not more than five times the amount of the Crown charges on the timber so cut;

- (b) contravenes subsection 1 of section 14 or any order or direction made under section 26, or any regulation made under clause *h* of section 52, is liable to a penalty of not less than twice and not more than five times the amount of the Crown charges on the timber in respect of which such contravention occurred;
- (c) except under a licence, cuts or employs or induces or assists any other person to cut Crown timber, or removes or employs or induces or assists any other person to remove Crown timber, is liable to a penalty of not less than twice and not more than five times the amount of the Crown charges on the timber in respect of which such contravention occurred;
- (d) contravenes section 41, is liable to a penalty of not less than twice and not more than five times the amount of the Crown charges on the timber in respect of which such contravention occurred;
- (e) contravenes section 17, is liable to a penalty of not less than \$500 and not more than \$5,000;
- (f) when in possession or control of any timber or any product manufactured therefrom, upon request refuses or fails to inform any officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber, is liable to a penalty of not less than \$10 and not more than \$500;
- (g) interferes with any officer or agent who seizes timber under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (h) removes or attempts to remove or interferes or attempts to interfere with any timber or any product manufactured therefrom after it has been seized under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (i) makes or avails himself of any false statement or oath with respect to any matter under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (j) contravenes section 45 or any regulation made under clause *m* or *o* of section 52, is liable to a penalty

of not less than \$500 and not more than \$1,000 for the first contravention and to a penalty of not less than \$1,000 and not more than \$5,000 for each subsequent contravention.

(2) Where in the opinion of the Minister a person is liable ^{Demand for} to a penalty under subsection 1, he may give notice to the ^{penalty} person by registered mail,

- (a) setting out the facts and circumstances that in his opinion render the person liable to a penalty;
- (b) requiring the person to pay such penalty as he deems proper in the circumstances; and
- (c) specifying the time within which the penalty shall be paid. 1952, c. 15, s. 46.

(3) If a person fails to pay a penalty in accordance with ^{Right of} a notice under subsection 2, the Minister may bring an ^{action} action for the recovery of the penalty in a court of competent jurisdiction, and in such action it is the duty of the court,

- (a) to determine whether such person is liable to a penalty under subsection 1; and
- (b) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister; and
- (c) to give such judgment as it deems proper; and
- (d) to make such order as to costs or otherwise as it deems proper. 1952, c. 15, s. 47.

GENERAL

48. The Minister by instrument in writing may authorize ^{Powers conferred on} the Deputy Minister of Lands and Forests or any officer or ^{Deputy} agent to exercise such of the powers conferred by this Act ^{Minister, officers, etc.} upon him as may in his opinion properly be exercised by the Deputy Minister or such officer or agent. 1952, c. 15, s. 48.

49. Every thing done by the Minister under the authority ^{Acts of} of this Act shall be deemed to be of an administrative and ^{Minister} not of a legislative nature. 1952, c. 15, s. 49. ^{deemed}
^{adminis-}
^{trative}

50.—(1) Notwithstanding anything in any general or ^{Regula-} special Act or in any order in council or regulation made ^{tions re} pursuant thereto or in any licence, the Lieutenant Governor ^{Crown} ^{dues}

in Council may make regulations increasing or decreasing the Crown dues payable in respect of any kind or class of timber or increasing or decreasing the annual ground rent and fire protection charge payable in respect of licensed areas, and such regulations shall take effect on the 1st day of April immediately preceding or at such subsequent time as is specified in such regulations. 1952, c. 15, s. 50 (2), *revised*.

Price to
include
Crown
dues

(2) Where by the terms of a licence a price is fixed for any kind or class of timber and such price is stated to be inclusive of Crown dues or a price is fixed without reference to Crown dues, such price shall be deemed to be increased or decreased from time to time, as the case may be, by the amount whereby Crown dues are increased or decreased under subsection 1. 1952, c. 15, s. 50 (2).

Existing
licences
and permits

51.—(1) Every licence granted under a predecessor of this Act and subsisting when this Act comes into force shall, subject to subsection 2, continue in force in accordance with the terms of the licence.

Application
of Act and
regulations

(2) This Act and the regulations apply to every licence heretofore or hereafter granted and, where there is any conflict between this Act or the regulations and any licence, this Act and the regulations govern. 1952, c. 15, s. 51.

REGULATIONS

Regulations

52. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the terms and conditions that shall apply to licences, other than those granted under subsection 6 of section 2 or section 5;
- (b) prescribing terms and conditions, in addition to those prescribed under clause *a*, that shall apply to licences to cut Crown timber in a provincial park;
- (c) fixing the amounts of ground rent, fire protection charges or other charges to be paid in respect of licensed areas, and prescribing the percentages of the productive lands included in a licensed area that shall be subject to ground rent and to fire protection charges;
- (d) fixing the Crown dues to be paid in respect of each species of timber, other than damaged timber, cut under licence;
- (e) fixing the times at which Crown charges are payable

and the rate of interest to be charged on overdue accounts;

- (*f*) fixing the fees to be paid on the transfer of a licence;
- (*g*) prescribing the manner in which a seizure of timber may be effected under section 20;
- (*h*) fixing the minimum size of any species of trees that may be cut under licence;
- (*i*) defining wasteful practices in forest operations and prescribing the penalties that may be imposed for contravention of any such regulation;
- (*j*) classifying mills and providing for the issue of licences therefor;
- (*k*) prescribing the form of mill licences and the fees to be paid therefor;
- (*l*) prescribing the term of mill licences and providing for the transfer, renewal, suspension and cancellation thereof;
- (*m*) imposing conditions as to the location of mills, the mechanical efficiency thereof and operating methods of mill licensees, including the disposal of waste or refuse;
- (*n*) providing for the periodical inspection of mills;
- (*o*) prescribing the returns that mill licensees shall make to the Minister as to their mills and operations, including the sources, species, quantities and disposition of materials processed;
- (*p*) prescribing the form of scalers' licences, special permits and renewals and the fees payable in respect thereof;
- (*q*) prescribing penalties for the contravention of any provision of this Act or the regulations where no penalty has been fixed by this Act;
- (*r*) governing the cutting of timber before the issue of a patent by a purchaser or locatee of lands for agricultural purposes under *The Public Lands Act* and prescribing the extent to which and the conditions under which such cutting may be carried on; ^{R.S.O. 1960, c. 324}
- (*s*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 15, s. 52.

CHAPTER 84

The Crown Witnesses Act

1. In this Act, "trial" means a trial at a sittings of the Supreme Court, a court of general sessions of the peace, a county or district court judges' criminal court, or a magistrate's court for the summary trial of indictable offences under the *Criminal Code* (Canada), and includes a preliminary inquiry and proceedings before a grand jury. 1953-54, c. 51 (Can.) 1960, c. 19, s. 1.

2.—(1) The Crown attorney may grant to a person who attends at the instance of the Crown to give evidence at a trial an order for the payment of such sum as witness fees and allowances as he deems proper, but, subject to section 3, not more than is provided for in the Schedule. Fees, etc.

(2) The Crown attorney, with the approval of the presiding judge or magistrate, may include in an order such sum, in addition to the witness fees and allowances, as he deems reasonable and sufficient to compensate the witness for doing any work in preparation for the trial or preparing any document or article for use at the trial. Additional compensation 1960, c. 19, s. 2.

3. The Attorney General may increase the sum ordered to be paid so that the witness will be reasonably compensated for his attendance at the trial and he may order that a special fee be paid to an expert witness. Special fee 1960, c. 19, s. 3.

4. Where a bill of indictment has not been preferred or where a trial has not been proceeded with, sections 2 and 3 apply, if in the opinion of the Crown attorney a person attended the court in obedience to a recognition or subpoena or at the instance of the Crown. Where no indictment preferred or trial had 1960, c. 19, s. 4.

5. The order shall be directed to the treasurer of the county in which the offence was committed or was alleged to have been committed, or, if the offence was committed or was alleged to have been committed in a city or in a separated town, the order shall be directed to the treasurer of the city or town. Order, to whom directed 1960, c. 19, s. 5.

Payment
by the
treasurer

6. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named the amount stated, on his signing a receipt therefor in person. 1960, c. 19, s. 6.

Payment
by a
treasurer
on whom
order is not
made

7. Where the trial took place in a county other than the county in which the offence was committed, the treasurer of the county in which the trial took place, if applied to by a witness with an order of the Crown attorney of that county, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer of the county in which the offence was committed or was alleged to have been committed. 1960, c. 19, s. 7.

Change
of venue

8. In cases sent from a provisional judicial district for trial in a county, the fees and allowances of the witnesses paid under this Act shall be repaid in full out of the moneys appropriated by the Legislature for the administration of justice. 1960, c. 19, s. 8.

Idem

9. The fees and allowances authorized by this Act shall be paid out of the moneys appropriated by the Legislature for the administration of justice to witnesses attending a sitting of any court held in a provisional judicial district. 1960, c. 19, s. 9.

Fee to
Crown
attorney

10. The Crown attorney is entitled to receive from the county in which the court is held a fee of \$1 in respect of every trial on which a witness attends, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the making of an order under this Act. 1960, c. 19, s. 10.

Witness
fees, etc.,
payable on
prosecution
of claims,
etc., by Her
Majesty

11. In the case of an information, action or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of Her Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property to which Her Majesty claims to be entitled for the use of Ontario, the witnesses are entitled to be paid the like witness fees and allowances as are payable in actions between subject and subject. 1960, c. 19, s. 11.

Where
evidence
taken by
commission

12. Where a commission has issued to take the evidence of a witness, the fees and expenses incurred in and by the issue of the commission and the taking of the evidence shall be paid in the same manner as witness fees. 1960, c. 19, s. 12.

13. A witness is not entitled to require payment of any witness fee or allowance under this Act before the determination by adjournment or otherwise of the trial at which he attends as a witness. 1960, c. 19, s. 13.

Fees, etc.,
not payable
in advance

SCHEDULE

(Section 2 (1))

WITNESS FEES AND ALLOWANCES

1. Attending trial, each day..... \$ 6
- Barristers, solicitors, physicians and surgeons when called upon to give evidence in consequence of any professional service rendered by them or to give professional opinions, each day.... 15
- Engineers, accountants, surveyors and architects when called upon to give evidence in consequence of any professional service rendered by them or to give evidence depending upon their skill or judgment, each day..... 15
2. Where a witness travels by private automobile, 10 cents a mile each way for each mile necessarily travelled between his place of residence and the place of trial, but, where the trial is held in the city or town in which the witness resides, 75 cents.
- The distance travelled shall be ascertained by the certificate of the Crown attorney.
3. Where a witness travels by a means other than private automobile, a sum equal to the amount of the fare actually paid for the transportation from his place of residence to the place where the trial is held, and return.
4. Where a witness is required to attend the trial on more than one day and returns to his place of residence at night, the travelling allowance mentioned in item 2 or 3, as the case may be, is payable in respect of each day's attendance.
5. Where a witness resides elsewhere and in the opinion of the Crown attorney it is desirable that he remain overnight at the place at which the trial is held, a sum equal to the amount reasonably and actually paid by him for living expenses, but not more than \$8 for each night.

CHAPTER 85

The Custody of Documents Act

1. In this Act, "document" includes whatever is included in the word "instrument" as defined by *The Registry Act*, and also any certificate, affidavit, statutory declaration, or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants, or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, and notices of sale, or other notices necessary to the exercise of any power of sale or appointment or other power relating to land. Interpretation R.S.O. 1960, c. 348

2. Any person having a document, forming or being a title deed or evidence or muniment of title to land in Ontario, may deposit it for safe custody in the office of the registrar of any registry division in which the document or a duplicate or copy or memorial or certificate thereof has been registered, or, where it does not appear by an endorsement thereon that it or a duplicate or copy or memorial or certificate thereof has been registered, the document may be so deposited in the office of the registrar of any registry division in which any land to which it relates is situate. Deposit of title deeds, etc. R.S.O. 1950, c. 85, s. 2.

3. Upon every such deposit the person making the deposit shall deliver to the registrar a requisition in duplicate (Form 1), which may include any number of documents, and the registrar shall sign a receipt upon one of the duplicates for the documents therein mentioned, and shall deliver the receipt to the person making the deposit. Requisition to be filed and receipt given R.S.O. 1950, c. 85, s. 3.

4.—(1) Upon receiving the requisition and the documents therein mentioned, the registrar shall enter every document in consecutive order in a book (Form 2) to be called the "Deposit Index", and shall therein number such documents consecutively, and shall endorse on each document the word "deposited", with the date of deposit and the number of the entry thereof in the deposit index, and shall file it in consecutive order according to its number, and shall also endorse on the requisition the numbers so placed on the documents therein mentioned, and shall file all the requisitions in consecutive order according to their numbers. Each document to be numbered and entered in deposit index and filed

Names to be
entered in
alphabetical
index

(2) The registrar shall also enter in an alphabetical index, to be called the "Alphabetical Deposit Index", the number of the document in the deposit index, and the name of every party to the document, or to the action, suit or proceeding to which the document relates, or, if the document is a certificate or an affidavit or a statutory declaration or other proof as to the birth, baptism, marriage, divorce, death or burial of any person, the name of such person.

Entry
opposite
registered
instruments

(3) Where it appears by a certificate of registration endorsed on the document that it or a duplicate or a copy or memorial or certificate thereof is registered in his registry office, the registrar shall also enter in the margin of every registry book wherein it is registered opposite the entry thereof the words "See deposit index No., 19. . . .", referring to the number of the document in the deposit index and the date of the deposit.

Entry on
abstract
index

(4) Where a deposit refers to a lot or parcel of land, the registrar shall also enter in red ink on the abstract index against each such lot or parcel the words "See Deposit No. . . .". R.S.O. 1950, c. 85, s. 4.

Documents
to be copied

(5) The registrar shall copy in full in a proper registry book every document deposited under this Act. 1952, c. 16, s. 1.

Notice to be
sent to other
registry
offices

5.—(1) Where it appears by a certificate of registration endorsed on the document that it is registered in any other registry division, the registrar with whom it is deposited shall, within ten days after the deposit, send to such other registrar a notice thereof in duplicate (Form 3).

Fees to
other
registrars

(2) The registrar receiving the notice is entitled to a fee of 20 cents for every document in respect of which he is required to make an entry.

Entry of
notice

(3) On receipt of the notice, the registrar receiving it shall enter in the margin of every registry book wherein the document appears to have been registered, opposite the entry thereof, the words "See deposit index in.registry office, No., 19. . . .", referring to the registry office from which the notice was received, and the number and date of the deposit therein, and he shall forthwith send an acknowledgment of the receipt of the notice written upon one of the duplicate notices.

Repeating
notice until
acknow-
ledged

(4) If such an acknowledgment is not received within fourteen days from the sending of the notice, the registrar sending

the notice shall send another like notice and shall repeat the same every fourteen days until the acknowledgment is received.

(5) Every such notice and acknowledgment shall be sent by registered mail, and a sufficient sum to pay the registrar's fees and the postage shall be sent with the notice.

(6) All notices received from other registrars shall be filed by the registrar receiving them in the order in which they are received, and all such acknowledgments shall be filed by the registrar receiving them in the order of their receipt.
R.S.O. 1950, c. 85, s. 5.

6. The registrar with whom the deposit is made is entitled to the following fees to be paid at the time of the deposit by the person making the deposit:

On every requisition.....	\$1.00
On every document deposited.....	.10
For every notice necessary to be sent to other registrars (not more than one notice to any one registrar to be charged for).....	.25
Necessary postage on the notices and acknowledgments. A sum sufficient to pay the fees under subsection 2 of section 5.	
For entering upon the abstract index for each lot in excess of four lots.....	.10
For copying document, for each folio.....	.15

1952, c. 16, s. 2.

7.—(1) A receipt for payment of money on a registered instrument may be deposited in the registry office in which the instrument is registered, but it is not necessary to deliver any requisition with the receipt or to pay any fee for depositing the receipt or the entries in respect thereof, except the sum of 20 cents.

(2) The registrar shall receive and file in consecutive numerical order all receipts so deposited, and shall endorse thereon the number, the date of deposit, and the amount mentioned in the receipt, and shall write in the margin of the registry book wherein the instrument to which the receipt relates has been registered the words "See receipt No.".
R.S.O. 1950, c. 85, s. 7.

8. Any person is entitled to inspect and make or obtain copies of, or extracts from, any document deposited under this Act in like manner as in the case of instruments registered under *The Registry Act*, and the registrar is entitled to the same fees in respect thereof as in the case of registered instruments. R.S.O. 1950, c. 85, s. 8.

Deposit not
registration
and not to
affect
document
as evidence
R.S.O. 1960,
c. 348

9. The deposit of a document under this Act shall not be deemed a registration thereof within the meaning of *The Registry Act* nor shall the admissibility or value of any document as evidence be affected by the deposit. R.S.O. 1950, c. 85, s. 9.

Deposit re-
lieves from
liability

10. The deposit of a document under this Act shall, while the document continues so deposited, be deemed a sufficient compliance with, and fulfilment of, any covenant or agreement entered into by any person to produce or allow the inspection of, or the making of, any copy of or extract from the document, and absolves any person liable for the production or custody thereof from any further liability in respect of such custody or production. R.S.O. 1950, c. 85, s. 10.

Expenses of
executors,
etc.

11. An executor, administrator or trustee may reimburse himself out of the estate for any expense that he incurred in or about depositing any document that came into his possession or control as such executor, administrator or trustee. R.S.O. 1950, c. 85, s. 12.

Registrar to
keep safely

12. The registrar with whom a document is so deposited shall keep it safely in his office in like manner and with the same care as the instruments registered in his office, and he and his sureties are responsible in respect thereof in like manner as in respect of instruments registered under *The Registry Act*, and the registrar shall not part with the possession of any such document except in accordance with the order of a court or a judge as provided in section 13. R.S.O. 1950, c. 85, s. 11.

Application
to remove
from
custody

13.—(1) At any time after the deposit of a document any person may apply to the Supreme Court or to the county or district court of the county or district in which the deposit is made, or to a judge of either of such courts, for the delivery of the document to such person, and the court or judge may direct that it be delivered by the registrar to the applicant, or to a person named by the court or judge, upon being satisfied that the applicant would, but for the deposit, be solely entitled to the possession of the document, and that the deposit thereof was made without his consent, or the consent of a person entitled at the time of the deposit to an interest therein, and, where the document relates to other land than that in which the applicant is interested, that there are reasonable grounds for removing the document from the custody of the registrar.

Notice of
application

(2) Before making the order, the court or judge may require such notice of the application, by advertisement or otherwise,

to be given to the person by whom the deposit was made, or to any other person, as to the court or judge seems just.

(3) The order may direct that all or any part of the costs ^{Costs} of the application, or of opposing it, or in relation to it, be paid by the person by whom the deposit was made, or by the person by whom the application is made, or by any person to whom notice of the application has been given, or the court or judge may make such other order in respect of the costs of the applicant, and of the persons who have been notified, or who oppose the application, as seems just. R.S.O. 1950, c. 85, s. 13.

(4) Upon the delivery to the registrar of the order or a duplicate thereof within six months after the date thereof, ^{Delivery under order} and upon payment to him of the sum of 50 cents, he shall deliver to the person mentioned therein the documents therein directed to be given to him, taking therefor his receipt or the receipt of his authorized agent.

(5) The registrar shall thereupon enter in the deposit ^{Registration of order} index, opposite the entry of the document, the date of such delivery, and the name of the person to whom delivered, the court or judge by whom the order was made, and the date of the order, and shall file the order among the requisitions for deposit in the order of the date of its receipt. R.S.O. 1950, c. 85, s. 14.

FORM 1

(Section 3)

REQUISITION

To the Registrar of the Registry Division of.....

I (or we) hereby deposit with you, pursuant to *The Custody of Documents Act*, the following documents:

Description of document	Names of all parties	Any other particulars or subject of certificate, affidavit, etc.	Land in this registry division to which documents relate	Particulars of registration of registered instruments			
				Registry division	Date	No.	Township, city, town, etc.

Dated.....

Signed in presence of me, to whom the depositor and his residence and occupation are well known. A.B. C. D. *Residence, giving Lot, Concession or House No. and Street* (Occupation)

The documents above mentioned, with a duplicate of the above requisition, are this day received by me.

Dated.....

E. F.,
Registrar for.....

R.S.O. 1950, c. 85, Form 1.

FORM 2

(Section 4 (1))

DEPOSIT INDEX

Deposit No.	Description of document	Parties	Land in this registry division mentioned	Any other particulars or subject of certificates, affidavits, etc.	Particulars of registration certificate endorsed	Date of deposit	By whom deposited

R.S.O. 1950, c. 85, Form 2.

FORM 3
(Section 5 (1))

NOTICE OF DEPOSIT

To the Registrar of the Registry Division of.....

The following documents, which appear to be registered in your registry office, have been deposited in this registry office under *The Custody of Documents Act*.

Deposit Index No.	Date of deposit	Description of document	Parties	Particulars of registration in your registry division		
				Township, city, town, etc.	Date of registration	Registration No.
2146	8th Aug., 19...	Mort-gage	John Smith to Wm. Jones			

You are required to enter such deposit, and to acknowledge receipt hereof, under above Act. I enclose cents for your fees and cents for postage on acknowledgment.

Dated.....

Registrar for.....

ACKNOWLEDGMENT TO BE PUT ON DUPLICATE NOTICE

The duplicate of above notice of deposit of (*three*) documents received at the registry office for this day of, 19...., and entry of such deposit has been made in accordance with *The Custody of Documents Act*.

Registrar

CHAPTER 86

The Damage by Fumes Arbitration Act

1. The Lieutenant Governor in Council may appoint an arbitrator for the purposes of this Act and may limit his jurisdiction either territorially or as to subject matter and may extend such limited jurisdiction or diminish it from time to time. R.S.O. 1950, c. 87, s. 1.

Appointment
of arbitrator

2.—(1) Where damage is occasioned directly or indirectly to crops, trees or other vegetation by sulphur fumes arising from the smelting or roasting of nickel-copper ore or iron ore or from the treatment of sulphides for the production of sulphur or sulphuric acid for commercial purposes, such damage may, subject to section 3, be determined by the arbitrator who has exclusive jurisdiction to determine the amount of such damage and to make an award. 1958, c. 20, s. 1.

Damage to
crops, etc.

(2) The remedies provided in this Act are in lieu of all remedies whether in law or in equity to which any person would be entitled but for the passing of this Act and no action shall be taken by way of injunction or otherwise. R.S.O. 1950, c. 87, s. 2 (2).

Effect of
remedies
herein
provided

3.—(1) Notice of the damage shall be given by the person aggrieved to the person, company or corporation offending and to the arbitrator within seven days of such damage occurring, and in the absence of such notice the arbitrator may disallow any claim for compensation.

Notice of
damage

(2) Upon receipt of such notice, the arbitrator shall make an investigation and keep a record of the facts as he finds them in connection with each complaint.

Investiga-
tion

(3) At any time before the 1st day of November of the year in which the damage is alleged to have occurred, the person aggrieved has the right to appeal to the arbitrator to determine compensation and the arbitrator shall thereafter, as soon as is convenient, notify both parties, hear such evidence as is available, assess the damage and make the award in writing.

Assessment
of damage
by
arbitrator

(4) The arbitrator is not bound by the technical rules of evidence and all oral evidence submitted shall be taken down

Evidence

in writing and, together with such documentary evidence and things as are received in evidence by the arbitrator, forms the record.

Agreements
of
settlement

(5) Nothing in this Act prevents the person aggrieved and the person, company or corporation offending from arriving at a mutually satisfactory settlement apart from the arbitrator. R.S.O. 1950, c. 87, s. 3.

Effect of
award

4. Subject to section 5, the award of the arbitrator is final and binding upon the parties and shall not be questioned, reviewed, restrained or removed by prohibition, injunction, *certiorari* or other process or proceeding in any court, and, on being filed in the office of the clerk of the county or district court, such award, for the purpose of issuing execution thereon, has the same force and effect as a judgment of the court. R.S.O. 1950, c. 87, s. 4.

Appeal

5.—(1) The person aggrieved or the person, company or corporation offending, may appeal from the award of the arbitrator to the Ontario Municipal Board by serving or sending by prepaid mail notice in writing of such appeal to the arbitrator and to the person aggrieved, or the person, company or corporation offending, as the case may be, within twenty days of the making of the award.

Form of
notice

(2) The notice shall set forth the grounds on which the appeal is made and shall have endorsed thereon the address at which the appellant may be served with any notice or process.

Summons to
attend;
dismissal
of appeal

(3) Within thirty days from the service of the notice of the appeal the Ontario Municipal Board shall, upon the application of an appellant, grant a summons calling upon all parties to attend before it on the day and hour named therein when the hearing of the appeal will be proceeded with and, if no such application is made within such thirty days, the Board, upon proof of the failure to make such application, shall order that the appeal be forthwith dismissed with costs.

Appeal on
record

(4) The appeal shall be heard and determined upon the record had and taken before the arbitrator, and the Ontario Municipal Board may upon such hearing make such order as it deems fit affirming, reversing or amending the award appealed from, and the award as affirmed, reversed or amended, or the order of the Board, as the case may be, has the same force and effect and may be enforced in the manner prescribed in section 4.

(5) The order of the Ontario Municipal Board is final and binding upon all parties and is not subject to appeal. ^{Finality of order}

(6) The Ontario Municipal Board has the same powers, ^{General powers}

(a) to fix and collect fees;

(b) to fix and order the payment of costs; and

(c) to prescribe rules of practice and procedure,

with respect to appeals and proceedings under this Act as it has under *The Ontario Municipal Board Act*. R.S.O. 1950, ^{R.S.O. 1960, c. 274} c. 87, s. 5.

6.—(1) A sum not exceeding \$30,000 in any year to cover ^{Expenses} the expenses of administering this Act, including the salary or other remuneration of the arbitrator and his assistant, is payable annually to the Province by the companies smelting or roasting nickel-copper ore or iron ore or treating sulphides for the production of sulphur or sulphuric acid for commercial purposes.

(2) The arbitrator at the close of each calendar year shall ^{Assessment} assess the amount for which each company smelting or roasting nickel-copper ore or iron ore or treating sulphides for the production of sulphur or sulphuric acid for commercial purposes is liable under subsection 1, and the amount assessed against each company is payable to the Treasurer of Ontario within fifteen days after the mailing of a registered letter demanding payment thereof to the last-known address of the company, but every assessment so made is subject to the approval of the Minister of Mines. 1958, c. 20, s. 2.

7. The Lieutenant Governor in Council may make regula- ^{Regulations} tions respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 87, s. 7.

CHAPTER 87

The Day Nurseries Act**1. In this Act,**Interpre-
tation

(a) "day nursery" means an institution, agency or place, whether known as a day nursery, nursery school, kindergarten, play school, or under any other name, which for compensation or otherwise receives for temporary custody on a daily or hourly basis with or without stated educational purpose, during part or all of the day, apart from the parents, more than three children under seven years of age and not attending the first grade of school and not of common parentage, but does not include a nursery school or kindergarten conducted,

(i) as part of a public school under *The Public Schools Act* or a separate school under *The Separate Schools Act*, or

R.S.O. 1960,
cc. 330, 368

(ii) as part of a school, college, academy or other educational institution that is giving instruction equivalent to that given in grades 1 to 8, both inclusive, in a public or separate school;

(b) "Minister" means the Minister of Public Welfare.
R.S.O. 1950, c. 88, s. 1; 1960, c. 20, s. 1.

2.—(1) The council of a city, town, village or township may by by-law provide for the establishment of day nurseries for the care and feeding of young children.

Establish-
ment of day
nurseries

(2) A by-law passed under subsection 1 may provide for the establishment of day nurseries directly by the municipality or by an organization named in the by-law and approved by the Minister, but in either event, in order to qualify for a grant under this Act, the council of the municipality must be responsible for the efficient and satisfactory operation thereof and for furnishing to the Minister such reports and other information as he requires. R.S.O. 1950, c. 88, s. 2.

Establish-
ment of day
nurseries by
municipality
or
organization

Contribution
by Province

3. There shall be paid to every municipality in respect of every day nursery established under section 2 and conducted in accordance with the regulations an amount equal to one-half of the amount paid out or contributed by the municipality for the operation and maintenance of the day nursery, computed in the manner prescribed by the regulations. R.S.O. 1950, c. 88, s. 3.

Regulations

4.—(1) The Lieutenant Governor in Council may make regulations,

- (a) governing and regulating the operation of day nurseries;
- (b) requiring any class or classes of day nurseries to be licensed and providing for the issue, renewal, suspension and cancellation of licences;
- (c) prescribing the fee payable by an applicant for a licence or renewal of a licence.
- (d) prescribing the manner of computing the cost of operation and cost of maintenance of a day nursery for the purposes of section 3;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 88, s. 4 (1); 1960, c. 20, s. 2.

Application
of
regulations

(2) Any regulation may be made applicable to day nurseries generally or may be restricted in its application to day nurseries established under section 2. R.S.O. 1950, c. 88, s. 4 (2), *amended*.

Offence

5. Every person who contravenes any of the provisions of the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for a first offence and not more than \$100 for a second or subsequent offence. R.S.O. 1950, c. 88, s. 5.

Appropriation
of
money

6. All sums payable under this Act are payable out of the moneys that are appropriated therefor by the Legislature. R.S.O. 1950, c. 88, s. 6.

CHAPTER 88

The Dead Animal Disposal Act**1. In this Act,**Interpre-
tation

- (a) “collector” means a person engaged in the business of collecting dead animals and fallen animals;
- (b) “Commissioner” means the Live Stock Commissioner;
- (c) “dead animal” means a horse, goat, sheep, swine or head of cattle that has died from any cause other than slaughter;
- (d) “fallen animal” means a horse, goat, sheep, swine or head of cattle that has been disabled by disease, emaciation or other condition that is likely to cause death;
- (e) “inspector” means an inspector appointed under this Act;
- (f) “Minister” means the Minister of Agriculture;
- (g) “receiving plant” means a premises to which dead animals are delivered for the purpose of obtaining the hide, skin, fats, meat or other product of the dead animals or for the purpose of selling or delivering the dead animals or parts thereof to a rendering plant;
- (h) “rendering plant” means a premises at which dead animals are processed into hides, meat, bone meal, meat meal or inedible fats;
- (i) “slaughter” means slaughter for the purpose of processing into food for human consumption. 1960, c. 21, s. 1.

2. This Act does not apply to,

Application

- (a) establishments operating under the *Meat Inspection Act* (Canada); and

1955, c. 36
(Can.)

- (b) dead animals or carcasses thereof while held for post mortem examination, investigation, loss adjustment or other purpose. 1960, c. 21, s. 2.

Responsi-
bility of
owner

3.—(1) The owner of a dead animal or carcass or part thereof shall dispose of it within forty-eight hours of its death,

- (a) by burying it with a covering of at least two feet of earth; or
- (b) by the services of a person licensed under this Act and the regulations.

Fallen
animals

(2) The owner of a fallen animal shall kill it in a humane manner and dispose of it in accordance with subsection 1. 1960, c. 21, s. 3.

Slaughter
prohibited

4.—(1) No person shall slaughter an animal at a receiving plant or a rendering plant.

Collector

(2) No collector shall give, sell or deliver a dead animal to any person other than the holder of a licence under this Act.

Processing
or storing
meats

(3) No person shall process or store meat or products made therefrom for human consumption at a receiving plant or a rendering plant. 1960, c. 21, s. 4.

Licensing

5. No person shall engage in the business of a collector or operator of a receiving plant or operator of a rendering plant without a licence therefor from the Commissioner. 1960, c. 21, s. 5.

Conditions
of licence

6. Every licence is subject to the conditions that the holder of the licence,

- (a) maintains in good mechanical and sanitary condition all vehicles, premises and equipment used in the collecting and handling of dead animals and the disposing of the carcasses and parts thereof;
- (b) takes all reasonable precautions to prevent the spread of any disease that caused the deaths of the animals; and
- (c) complies with this Act and the regulations and any other conditions that are imposed by the regulations. 1960, c. 21, s. 6.

7.—(1) A collector shall make and keep for at least twelve ^{Records} months a record of the dead animals he collects and the disposal thereof as prescribed by the regulations.

(2) An operator of a receiving plant shall make and keep ^{Idem} for at least twelve months a record of the dead animals he receives and of the disposal thereof as prescribed by the regulations.

(3) An operator of a rendering plant shall make and keep ^{Idem} for at least twelve months a record of the dead animals he receives at the plant as prescribed by the regulations. 1960, c. 21, s. 7.

8.—(1) The Minister may appoint a chief inspector and ^{Inspectors} one or more inspectors to carry out and enforce this Act and the regulations.

(2) The production by an inspector of a certificate of his ^{Certificate of appointment} appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

(3) The Commissioner or an inspector may enter any ^{Powers} premises or building for the purpose of carrying out his duties. 1960, c. 21, s. 8.

9. No person shall hinder or obstruct an inspector in the ^{Obstruction of inspector} course of his duties or furnish him with false information, or refuse to furnish him with information. 1960, c. 21, s. 9.

10. Every person who contravenes any of the provisions ^{Offences} of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$100 and for a subsequent offence to a fine of not more than \$500 or to imprisonment for a term of not more than thirty days. 1960, c. 21, s. 10.

11. The Lieutenant Governor in Council may make regu- ^{Regulations} lations,

(a) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences and prescribing the fees payable for licences or the renewal thereof;

(b) prescribing conditions for licensing in addition to those mentioned in section 6;

- (c) prescribing the duties of inspectors;
 - (d) prescribing the manner in which vehicles and premises used in the collecting and handling of dead animals shall be cleaned, disinfected and maintained;
 - (e) respecting the transportation of dead animals and the products obtained therefrom;
 - (f) respecting the facilities and equipment to be provided and maintained at receiving plants and rendering plants;
 - (g) respecting advertising by persons licensed under this Act;
 - (h) providing for the labelling of products obtained from dead animals or parts thereof;
 - (i) providing for the disposition of dead animals or any class of them and any parts thereof;
 - (j) prescribing the records to be made and kept by collectors and by operators of receiving plants and rendering plants;
 - (k) prescribing forms and providing for their use;
 - (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 21, s. 11.
-

CHAPTER 89

The Debt Collectors Act

1. Every person, whether principal or agent, who prints or publishes a notice or form that is an imitation or a colour-able imitation of any of the forms appended to *The Division Courts Act*, or of other legal process, and that is calculated to deceive the public by inducing the belief that such notice or form is a notice or form from a court, or is part of the process of a court, or who issues or makes use of such a notice or form in connection with a collection agency or otherwise, is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 89, s. 1.

Penalty for
issuing
imitations
of division
court
notices
R.S.O. 1960,
c. 110

CHAPTER 90

The Dental Technicians Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Governing Board of Dental Technicians;
- (b) "dental technician" means a person who upon the prescriptions or orders of legally qualified dentists or physicians makes, produces, reproduces, constructs, furnishes supplies, alters or repairs any prosthetic denture, bridge, appliance or thing to be used in, upon or in connection with a human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof;
- (c) "register" means the register under this Act. R.S.O. 1950, c. 91, s. 1.

2.—(1) The board of governors known as the Governing Board of Dental Technicians established under *The Dental Technicians Act, 1946*, c. 18 is continued and shall be composed of five persons appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 91, s. 2 (1), *amended*.

(2) Every member of the Board shall hold office for a period of two years, but any member is eligible for re-appointment at the expiration of his term of office. ^{Term of office}

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. R.S.O. 1950, c. 91, s. 2 (2, 3). ^{Vacancies}

(4) The chairman, the vice-chairman and the secretary-treasurer of the Board shall be elected by the Board from time to time from among its members. R.S.O. 1950, c. 91, s. 2 (4), *amended*. ^{Officers}

Regulations

3.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) providing for the admission of dental technicians to carry on business in Ontario and for the registration of all persons so admitted, including the fees payable for registration, not exceeding \$25 for each person registered;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for maintaining a register of persons so admitted to carry on business and providing for the annual renewal of registration and prescribing the fees payable thereon, not exceeding \$25 annually for each person registered;
- (d) prescribing the discipline and control of registered technicians, including the adoption and enforcement of reasonable canons of ethics;
- (e) providing for the investigation of any complaint that a dental technician has been guilty of misconduct or displayed such incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (f) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been incompetent;
- (g) defining "misconduct" for the purpose of this section and the regulations;
- (h) providing for the payment of reasonable fees and disbursements to members of the Board in respect to the discharge of the duties of the Board;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Submission
to College

(2) All regulations made by the Board shall be submitted in writing to The Royal College of Dental Surgeons of Ontario not less than thirty days before being submitted to the Lieutenant Governor in Council for approval, and any submissions on the part of the College with respect to any such

regulations shall be presented to the Lieutenant Governor in Council with the application for approval of the regulations. R.S.O. 1950, c. 91, s. 3.

4.—(1) A person registered under this Act has the right to ^{Designation:} use the designation "Registered Dental Technician" and may describe his business as a dental laboratory.

(2) A person is not entitled to use the designation "Dental ^{use of, prohibited} Technician" or "Registered Dental Technician" or any other name, title, initials or description implying that he is a dental technician unless he is registered under this Act. R.S.O. 1950, c. 91, s. 4.

5. Nothing in this Act or the regulations applies to or ^{Right to practise profession} affects the practice of any profession or calling by any person practising the profession or engaged in the calling under the authority of any general or special Act of the Legislature. R.S.O. 1950, c. 91, s. 5.

6.—(1) Nothing in this Act or the regulations shall be ^{Employee of dentist} deemed to prohibit a person from working as an employee of a legally qualified dentist and, in the course of or as the whole or a part of his duties as such employee, performing for his employer work or services of a kind ordinarily performed by a dental technician.

- (2) Nothing in this Act shall be deemed to prohibit, ^{Performance of work by others}
- (a) a dentist within the meaning of *The Dentistry Act*; ^{R.S.O. 1960, cc. 91, 234}
 - (b) a physician within the meaning of *The Medical Act*;
 - (c) a hospital dispensary, university or municipal clinic acting upon the prescription or order of a legally qualified dentist or physician; or
 - (d) apprenticed dental technicians and other persons working as employees of a registered dental technician,

from performing work or services ordinarily performed by a dental technician.

(3) Nothing in this section shall be deemed to permit a ^{General work prohibited} person who is not a registered dental technician to engage generally in the service of dentists or of two or more dentists in the performance of the work of a dental technician, but working in the service of a firm or association of dentists

practising as partners or similarly associated with one another shall be deemed working in the service of one dentist. R.S.O. 1950, c. 91, s. 6.

Corporations **7.** Nothing in this Act shall be deemed to prohibit a registered dental technician from carrying on business as a dental technician through and in the name of a corporation where the corporation has a registered dental technician in charge of its operations, but in such case each of such dental technicians shall be deemed guilty of any infringement of *The Dentistry Act* or of this Act or of the regulations thereunder committed by such corporation. R.S.O. 1950, c. 91, s. 7.

R.S.O. 1960,
c. 91
to apply **8.** Nothing in this Act or the regulations limits, alters or affects the application of any provision of *The Dentistry Act* or of any by-law made thereunder. R.S.O. 1950, c. 91, s. 8.

Offences **9.** Every person who, not being registered under this Act, carries on business or holds himself out as carrying on business as a dental technician, or who advertises or uses or affixes any prefix to his name signifying that he is qualified to carry on business as a dental technician, is guilty of an offence and on summary conviction is liable to a fine of \$50 for a first offence, \$100 for a second offence, and \$200 for a third or subsequent offence. R.S.O. 1950, c. 91, s. 9.

Proof of registration **10.—(1)** In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, is sufficient evidence of all persons who are registered dental technicians in lieu of the production of the original register, and any certificate upon such printed or other copy of the register, purporting to be signed by a person in his capacity of secretary-treasurer of the Board, is *prima facie* evidence of his signature and election. R.S.O. 1950, c. 91, s. 10 (1), *amended*.

Idem (2) The absence of the name of a person from such copy is *prima facie* evidence that such person is not registered according to this Act.

Idem (3) In the case of a person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the Board of the entry of the name of such person on the register is evidence that such person is registered under this Act. R.S.O. 1950, c. 91, s. 10 (2, 3).

CHAPTER 91

The Dentistry Act**1. In this Act,**Interpre-
tation

- (a) "Board" means the Board of Directors of the College;
- (b) "College" means The Royal College of Dental Surgeons of Ontario;
- (c) "dentistry" or "dental surgery" means any professional service usually performed by a dentist or dental surgeon, and includes,
 - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or associated structure or tissue or any injury thereto,
 - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, or to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition in the human oral cavity, or to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, and
 - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(*d*) "practice" means the practice of dentistry or dental surgery;

(*e*) "profession" means the profession of dentistry or dental surgery. R.S.O. 1950, c. 92, s. 1.

College
continued

2. The Royal College of Dental Surgeons of Ontario is continued, and every person who holds a valid and unforfeited certificate of licence to practise dentistry granted to him by the College is a member of the corporation. R.S.O. 1950, c. 92, s. 2.

Power as to
real estate

3.—(1) The College may purchase, take and possess for the purposes of the College, but for no other purpose, and, after acquiring it, may sell, mortgage, lease or dispose of any real estate.

Consent to
alienation,
etc.,
required

(2) Such real estate shall not be sold, mortgaged, leased or disposed of, except with the consent of the Board given at a meeting duly called for that purpose and with the consent of the Minister of Education.

Notice of
meeting

(3) Notice of such meeting shall be given to every member of the Board by letter mailed to his last registered address seven days before the day appointed for the meeting, stating the object thereof. R.S.O. 1950, c. 92, s. 3.

Board of
Directors

4.—(1) There shall continue to be a Board of Directors.

Board to
consist of
11 members

(2) The Board shall consist of nine elected members, each of whom is a member of the College and shall hold office for two years, and the Minister of Education and the Minister of Health who are *ex officio* members of the Board.

Quorum

(3) The presence of at least five of the elected members of the Board is necessary to constitute a quorum.

One member
for each
electoral
district

(4) One member shall be elected for each electoral district mentioned in the Schedule by the members of the College resident in the district, and every person so elected must be a resident of the electoral district for which he is elected and no person is eligible for election as a representative of an electoral district who is a member of a dental faculty and in receipt of salary or other remuneration for his services thereon.

Member
from
U. of T.

(5) One member shall be elected by and from the Faculty of Dentistry of the University of Toronto.

(6) A member of the Board may at any time resign his office by giving notice of his resignation in writing to the secretary, and in case of a vacancy occurring through resignation or otherwise,

(a) where the vacancy occurs in the representation of an electoral district more than two months before the holding of a general election, an election shall be held for the electoral district to fill the vacancy, and, where the vacancy occurs not more than two months before the date of the general election, no person shall be elected or appointed to fill the vacancy;

(b) where the vacancy is in the representation of the Faculty of Dentistry, the remaining members of the Faculty shall elect a duly qualified person to fill the vacancy. R.S.O. 1950, c. 92, s. 4.

5. Ontario shall, for the purposes of this Act, be divided into eight electoral districts as described in the Schedule. R.S.O. 1950, c. 92, s. 5.

6.—(1) An election of the Board shall be held on the second Wednesday of December in every second year, reckoning from the year 1926.

(2) No person is qualified to vote at an election if he is in arrear in respect of any fees payable by him.

(3) The votes at an election shall be given by closed voting papers.

(4) The manner of holding an election with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Board, and in default of a by-law may be prescribed by the Lieutenant Governor in Council. R.S.O. 1950, c. 92, s. 6.

7.—(1) Every newly elected Board shall hold its first meeting in the city of Toronto on the first Monday in May or at such other time as is fixed by the retiring Board, and the members of the Board shall hold office until the first meeting of their successors.

Subsequent
meetings

(2) Other meetings shall be held at such times and places as the Board appoints.

Special
meetings

(3) Special meetings may be called by the president at any time, and on the request in writing of four members of the Board he shall call a special meeting. R.S.O. 1950, c. 92, s. 7.

President
and
officers

8.—(1) Every Board shall at its first meeting elect a president and a vice-president and shall appoint a registrar, a treasurer and a secretary and such other officers as the Board considers necessary, and any two or more of such appointive offices may be held by one person.

Remunera-
tion of
treasurer
and secretary

(2) The treasurer and the secretary shall receive such remuneration for their services as the Board fixes.

President,
etc., *pro*
tempore

(3) The Board shall, if the president and vice-president are absent, elect one of its members to preside at its meeting, who, while so presiding, has the same powers and shall exercise the same functions as the president.

Executive
committee

(4) The Board shall annually appoint from among its members not more than five persons who shall constitute an executive committee to take cognizance of and action upon all such matters as are delegated to it or as require immediate action or attention between meetings of the Board, but no action taken by the executive committee is valid unless agreed to by at least three members of the committee nor after the next ensuing meeting of the Board unless approved by the Board at that meeting, and the executive committee does not have power to alter, amend or suspend any by-law of the Board. R.S.O. 1950, c. 92, s. 8.

Remunera-
tion of
members
of Board

9. The members of the Board shall be paid such fees for attendances and such reasonable travelling expenses as are fixed by by-law of the Board. R.S.O. 1950, c. 92, s. 9.

Funds pay-
able to the
treasurer

10.—(1) All moneys under the control of the Board shall be paid to the treasurer and shall be applied for the purposes of the College.

Grants for
certain
purposes

(2) The Board may out of any funds in its hands from time to time make grants,

(a) for post-graduate courses and kindred educational extension work;

(b) for scholarship, lectureship and research work;

- (c) in aid of any fund that has for its purpose investigation in the interest of dental, medical and surgical science; or
- (d) in aid of any association or other body having for its object the protection of members of the College or the adjustment of claims against them for anything done in their professional capacity. R.S.O. 1950, c. 92, s. 10.

11.—(1) The Board shall make such by-laws as it deems ^{Power to make} necessary for the proper and better guidance, government, ^{by-laws} discipline and regulation of the Board, the College, the members of the College and the profession of dental surgery and the carrying out of this Act, and such by-laws shall be published for two consecutive weeks in *The Ontario Gazette*, and do not take effect until so published.

(2) Such by-laws or any of them may be annulled by the ^{Annulment} Lieutenant Governor in Council. R.S.O. 1950, c. 92, s. 11.

12. The Board has power, subject to the approval of the ^{Dental} Lieutenant Governor in Council, to pass by-laws, ^{hygienists}

- (a) providing for the establishment, development, regulation and control of an ancillary body known as dental hygienists;
- (b) providing for the delegation to dental hygienists of the performance, under the direct control and supervision of a member of the College, of the services of cleaning and polishing teeth and the giving of instructions and demonstrations in oral hygiene and mouth care;
- (c) prescribing other specific dental duties of a minor nature that may be similarly delegated for performance by dental hygienists;
- (d) regulating the conditions and prescribing the qualifications for admission to such body;
- (e) prescribing the admission and annual fees payable by members of such body;
- (f) generally for the defining, regulating and controlling of the practice of dental hygiene. R.S.O. 1950, c. 92, s. 12.

Examination
of students

13.—(1) The Board may appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that a student has passed any other satisfactory examination.

Idem

(2) Such examination shall be passed before the person concerned is entered as a student of dentistry. R.S.O. 1950, c. 92, s. 13, *revised*.

Curriculum
for students,
etc.

14.—(1) The Board may prescribe a curriculum of studies to be pursued by students, and fix and determine the period for which every student shall be articulated and employed under a duly licensed practitioner, the examination necessary to be passed and the fees to be paid to the treasurer before a certificate of licence to practise dental surgery is issued.

Admission
of other
persons

(2) The Board may prescribe the conditions upon which dentists residing elsewhere than in Ontario and students and graduates from other dental colleges may be admitted to membership in the College. R.S.O. 1950, c. 92, s. 14.

Arrange-
ments for
education
of students

15. Subject to the approval of the Lieutenant Governor in Council, the College may make arrangements with any university or college in Ontario for the use of any library, museum or property belonging to or under the control of such university or college, and may affiliate with any such university or college, and may enter into all arrangements necessary to that end upon such terms as are agreed upon. R.S.O. 1950, c. 92, s. 15.

Approval
for dental
courses

16.—(1) No person shall conduct any course for training or imparting instruction in any branch of dentistry or shall grant degrees in dentistry without the approval of the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

Revocation
of approval

(2) Upon the recommendation of the Minister of Health, the Lieutenant Governor in Council may at any time revoke any approval given under this section. R.S.O. 1950, c. 92, c. 16.

Annual exa-
minations

17.—(1) The Board, once at least in every year, shall cause to be held at a time fixed by the Board an examination of the candidates for certificates and such titles as the Board has authority to grant.

How and
by whom
conducted

(2) At every such examination the candidates shall be examined orally or in writing or otherwise by examiners to be appointed for that purpose by the Board in such subjects as the Board prescribes.

(3) The examiners shall receive such remuneration as is ^{Fees of} fixed by the Board. ^{examiners}

(4) Each examiner shall, if required, subscribe and take ^{Declaration} the following declaration: ^{by} ^{examiners}

I solemnly declare that I will perform my duty of Examiner without fear, favour, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage that is not equally allowed to all.

(5) The Board may dispense with such examination in the ^{Accepting} case of a person who proves to the satisfaction of the Board ^{other} that he has passed in any university or college an examination ^{examination} as substitute ^{as substitute} that the Board deems of equal value. R.S.O. 1950, c. 92, s. 17.

18.—(1) If the Board is satisfied by the examination that ^{Certificate of} the candidate is duly qualified to practise the profession of ^{qualification} dental surgery and that he is a person of integrity and good ^{to practise} moral character, it shall, subject to the by-laws, grant him a certificate of licence and the title of "Licentiate of Dental Surgery", which certificate and title entitle him to all the rights and privileges conferred by this Act.

(2) The Board shall hold at least one meeting in each year ^{Annual} in the city of Toronto for the purpose of granting such certi- ^{meeting} ficates and titles and for the transaction of such other business as properly comes before it. R.S.O. 1950, c. 92, s. 18.

19. A certificate of licence shall be sealed with the cor- ^{Issue of} porate seal of the College and signed by the president and ^{certificate} secretary of the Board, and the production of such certificate of licence is admissible in evidence as *prima facie* proof in all courts and upon all proceedings of its execution and contents. R.S.O. 1950, c. 92, s. 19.

20. The secretary of the Board shall, on or before the ^{Return of} 15th day of January in each year, transmit to the Provincial ^{licenses} Secretary a certified list of the names of all persons to whom ^{granted} certificates of licence have been granted during the year ending on the next preceding 31st day of December. R.S.O. 1950, c. 92, s. 20.

21. Every person desirous of obtaining a licence to practise ^{Prepayment} dentistry in Ontario shall at least one month before the ^{of examina-} prescribed examination make application in the form pre- ^{tion fees} scribed by the Board and pay to the treasurer the prescribed fees, and deliver to the secretary the treasurer's receipt for the fees, together with satisfactory evidence of his service under

articles and compliance with the rules and regulations prescribed by the Board, and of his integrity and good morals. R.S.O. 1950, c. 92, s. 21.

Annual fees

22.—(1) Every member of the College engaged in the practice of dental surgery in Ontario shall, on or before the 1st day of January in each year, pay to the treasurer, or to a person deputed by him to receive it, such annual registration fee as is prescribed by by-law passed by the Board and approved by the Lieutenant Governor in Council, and such fee is recoverable by suit in the name of the Royal College of Dental Surgeons of Ontario in the division court of the division in which the member in default resides. R.S.O. 1950, c. 92, s. 22 (1); 1955, c. 15, s. 1.

Result of default in payment of annual fee

(2) A member is not entitled to recover in any court for services rendered in the practice of dental surgery while he is in default in respect of an annual fee.

Default in payment of fee

(3) Where default is made in payment of the annual fee and such default continues for a period of one month, the licence of a member so in default lapses, but such licence may be renewed thereafter upon payment of the fee and an additional sum not exceeding \$10 as is prescribed by by-law of the Board and such sum is recoverable in the same manner as the annual fee. R.S.O. 1950, c. 92, s. 22 (2, 3).

Prohibition against practising without certificate

23.—(1) A person who is not a member of the College shall not, by himself or by any other person,

- (a) practise or hold himself out as qualified or entitled to practise the profession of dentistry or any branch thereof;
- (b) provide or perform any service, act or operation that is part of the practice of dentistry or any branch thereof, or undertake or purport to provide or perform any such service, act or operation;
- (c) make, produce, reproduce, construct, furnish, supply, alter or repair any prosthetic denture, bridge, appliance or thing to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition in the oral cavity, or to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, or give any advice or assistance in connection therewith, except

on the prescription or instructions of a member of the College, and, where the use of a design, impression or cast is necessary, except by the use of a design, impression or cast furnished by a member of the College with such prescription or instructions;

- (d) take or use any name, title, addition or description representing or implying that he holds a certificate of licence to practise dentistry or that he is a member of the College; or
- (e) represent that he is, or take or use any name, title, addition or description representing or implying that he is a graduate of a dental college or that he practises or is entitled or qualified to practise dentistry or any branch thereof, or that contains the words "dentist", "dentistry", "dental", "dental surgeon", or "dental surgery", or any similar word or words or any derivative thereof or any letters, signs or abbreviation having a similar significance.

(2) A member of the College shall furnish to the dental technician or other person instructed by him to undertake or perform any work or service or give any advice or assistance described in clause *c* of subsection 1 a written prescription therefor signed by such member, and where necessary a design, impression or cast, at the time of giving such prescription or instructions.

(3) No work, service, advice or assistance described in clause *c* of subsection 1 that is undertaken, performed or given by a person pursuant to a prescription or instructions of a member of the College, and by the use of a design, impression or cast furnished by a member of the College with such prescription or instructions, where a design, impression or cast is necessary, shall be deemed to be a contravention of this section.

(4) No work, service, advice or assistance that is part of the practice of dental hygiene and that is undertaken, performed or given by a dental hygienist in the office or clinic of a member of the College and under his supervision and control, shall be deemed to be a contravention of this section.

(5) Except with the written permission of the Board, no person in pursuit of his business, trade or calling shall have in any place dental equipment of a character similar to that with which a place of business of a member of the College is equipped, and which equipment would enable the person

generally to practise dentistry or any branch thereof, and the presence of such equipment in such place is *prima facie* evidence that the practice of dentistry is being carried on therein.

Prohibitions
as to persons
other than
College
establishing
college, etc.

(6) No person, other than the College, shall carry on in Ontario any school, college, laboratory or other institution for training or imparting instruction in any branch of dentistry or give instructions or courses in practice management without the consent of the Board, but this does not apply to a faculty of dentistry in a university in Ontario. R.S.O. 1950, c. 92, s. 23 (1-6).

Saving as
to
students

(7) Nothing in this section prevents any duly articulated student of dental surgery from receiving instruction in clinics and practice under the personal supervision of a member of the College. R.S.O. 1950, c. 92, s. 23 (8).

Offences

(8) Every person who contravenes any of the provisions of this section is guilty of an offence and for the first offence is liable to a fine of \$100, for the second offence, a fine of \$200, and for every subsequent offence, a fine of \$500, and he is not entitled to sue or recover in any court for any services that he performed or materials that he provided in the ordinary and customary work of a dental surgeon. R.S.O. 1950, c. 92, s. 23 (7).

Disposition
of fines

(9) The fines recovered under this section shall be paid over by the convicting magistrate to the treasurer of the College. R.S.O. 1950, c. 92, s. 23 (9), *amended*.

Power to
enter and
search
premises

(10) Upon information on oath by a duly authorized agent of the College that he has reasonable cause to believe that there is in a building or premises any dental equipment that is being, has been or is likely to be used contrary to this Act, or that any prosthetic denture, bridge, appliance or thing is being, has been or is likely to be made, produced, reproduced, fitted, constructed, furnished, supplied, altered or repaired, contrary to this Act, it is lawful for any justice of the peace, by warrant under his hand, to authorize and empower such agent or any other person named therein to enter and search the building or premises and every part thereof at any time and for that purpose to break open any door, lock or fastening of the building or premises or any part thereof, or any closet, cupboard, box or any receptacle therein that might contain any such dental equipment, prosthetic denture, bridge, appliance or thing. R.S.O. 1950, c. 92, s. 23 (10).

(11) In a prosecution under this section the burden of proof, Onus of proof

- (a) of membership in the College;
- (b) that a prescription was or instructions were given by a member of the College; and
- (c) that any design, impression or cast used in complying with such prescription or instructions was furnished by a member of the College,

is upon the person charged with a contravention of this section. R.S.O. 1950, c. 92, s. 24.

24.—(1) The Board may suspend or cancel the certificate of licence of a member of the College who has been heretofore or is hereafter convicted in Canada or elsewhere of an indictable offence if his conviction remains unreversed, or who has been or is guilty of any infamous, disgraceful or improper conduct in a professional respect and such infamous, disgraceful conduct in a professional respect shall be deemed to include fraudulent and exorbitant charging of fees, but this power shall not be exercised if the conviction is for a political offence committed out of Her Majesty's dominions, or for an offence that, though indictable, ought not, either from its nature or from the circumstances under which it was committed, to disqualify the person convicted from practising dentistry. Suspension and cancellation of certificates

(2) Where a member has been guilty of infamous, disgraceful or improper conduct in a professional respect, the power conferred by subsection 1 may be exercised notwithstanding that he has been acquitted of a criminal charge in respect of the same matter. Notwithstanding acquittal of criminal charge

(3) The Board or the executive committee of its own motion may, or, upon the application in writing of four members of the College, the president shall instruct the discipline committee to inquire into any case in which it is alleged that a member of the College has become liable to the suspension or cancellation of his certificate of licence for any of the causes mentioned in subsection 1. R.S.O. 1950, c. 92, s. 25. Inquiry as to suspension or cancellation of certificate

25.—(1) The Board shall appoint and always maintain a discipline committee of its own body for the purpose of ascertaining the facts of each case that may become the subject of inquiry. Discipline committee

Number	(2) The committee shall consist of not more than five members as the Board prescribes, three of whom constitute a quorum.
Secretary may be member	(3) The Board may by by-law provide that the secretary of the Board be a member of the committee.
By-laws as to tenure of office, proceedings	(4) The Board may pass by-laws for determining the tenure of office of the members of the committee and for the regulation and conduct of its proceedings.
Time, place and notice of meetings	(5) Subject to this section and to the by-laws of the Board, the committee may regulate the time and place for the holding, the manner of the convening and giving notice, and the conduct of its meetings.
Appointments to fill vacancies	(6) If a vacancy occurs in the membership of the committee, the remaining members may appoint a member of the Board to fill the vacancy, and the member appointed shall hold office until the next meeting of the Board.
Quorum of committee	(7) Notwithstanding any vacancy in the committee, so long as there are at least three members thereof, it is competent to exercise all or any of its powers.
Employment of assistance	(8) The committee may employ, at the expense of the Board, for the purposes of an inquiry, such legal or other assistance as the committee deems necessary.
Appearance by counsel	(9) The member whose conduct is the subject of inquiry has the right to be represented by counsel.
Place of meeting	(10) All meetings of the committee for taking evidence or otherwise ascertaining the facts shall be held in the county or district in which the member whose conduct is the subject of inquiry resides, unless such member and the Board agree to the meeting being held at the city of Toronto.
Notice of meeting	(11) At least ten days notice of the meeting of the committee for taking the evidence or otherwise ascertaining the facts shall be given to the member whose conduct is the subject of inquiry.
Contents of notice	(12) The notice shall contain a statement of the matter that is to form the subject of inquiry.
Evidence on oath	(13) The testimony of the witnesses shall be taken under oath, which the chairman or any member of the committee may administer, and there shall be full right to cross-examine all witnesses called and to adduce evidence in defence and in reply.

(14) If the person whose conduct is the subject of inquiry though duly notified does not attend, the committee may proceed in his absence, and he is not entitled to notice of the future meetings or proceedings of the committee. Effect of non-appearance

(15) The committee and any party to the proceedings may obtain on *praecipe* from the Supreme Court a subpoena for the attendance of witnesses and the production of books, documents and things, and disobedience thereof shall be deemed a contempt of court. Subpoenas

(16) Witnesses are entitled to the like allowances as witnesses attending upon the trial of an action in the Supreme Court. Witness fees

(17) The committee shall report to the Board the evidence adduced and the committee's findings thereon. Report

(18) The Board may act upon the report of the committee and may make such order thereon as the Board deems just. Acting upon report

(19) Where the complaint is found to be frivolous or vexatious, the Board may pay such costs as to it seems just to a member whose conduct has been the subject of inquiry. Costs of vexatious complaint

(20) Where the Board directs the certificate of licence of a member to be suspended or cancelled, it may direct that the costs of and incidental to the inquiry be paid by such member, and, after taxation of such costs by the taxing officer of the Supreme Court at Toronto, execution may issue out of the Supreme Court for the recovery thereof in like manner as upon a judgment in an action in that court. Costs of inquiry

(21) The costs to be taxed and allowed against a member, including the costs of appeal, if any, shall as far as practicable be the same or the like costs as in an action in the Supreme Court, and the taxing officer may also allow such fees and disbursements for work done or proceedings taken before notice of complaint as he deems just. R.S.O. 1950, c. 92, s. 26. Idem

26. No action shall be brought against the Board or the committee or a member thereof for anything done in good faith under this Act on account of any want of form or irregularity in their proceedings. R.S.O. 1950, c. 92, s. 27. No action lies against Board or committee

27.—(1) A member whose certificate of licence has been suspended or cancelled may, at any time within one month from the date of the decision of the Board, appeal from the decision of the Board to the Court of Appeal. Appeal

Practice and
procedure
on appeal
R.S.O. 1960,
c. 76

(2) The practice and procedure upon and in relation to an appeal shall be similar to that provided by *The County Courts Act*, except that the proceedings and evidence shall be certified by the registrar to the Court of Appeal. R.S.O. 1950, c. 92, s. 28.

Restoration
of
certificate

28. The Board may direct the restoration of the certificate of licence of any member whose certificate has been cancelled under the powers conferred by this Act upon such terms and conditions as the Board deems just. R.S.O. 1950, c. 92, s. 29.

Action for
malpractice,
etc.

29. A duly registered member of the College is not liable to an action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within six months from the date when the matter complained of terminated. R.S.O. 1950, c. 92, s. 30.

Saving as to
qualified
medical
practitioners
R.S.O. 1960,
c. 234

30. Nothing in this Act affects or interferes with the rights and privileges conferred upon legally qualified medical practitioners by *The Medical Act*. R.S.O. 1950, c. 92, s. 31.

SCHEDULE

ELECTORAL DISTRICTS

Electoral District No. 1 shall consist of the following counties: Addington, Carleton, Dundas, Frontenac, Glengarry, Grenville, Lanark, Leeds, Lennox, Prescott, Russell, Renfrew, and Stormont.

Electoral District No. 2 shall consist of the following counties and district: Durham, Haliburton, Hastings, Northumberland, Ontario, Prince Edward, Peterborough, and Victoria, and Muskoka.

Electoral District No. 3 shall consist of the following districts: Algoma, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay, Cochrane, and Timiskaming.

Electoral District No. 4 shall consist of the county of York.

Electoral District No. 5 shall consist of the following counties: Bruce, Dufferin, Grey, Huron, Perth, and Simcoe.

Electoral District No. 6 shall consist of the following counties: Elgin, Essex, Kent, Lambton, and Middlesex.

Electoral District No. 7 shall consist of the following counties: Brant, Haldimand, Norfolk, Oxford, Waterloo, and Wellington.

Electoral District No. 8 shall consist of the following counties: Halton, Lincoln, Peel, Welland, and Wentworth.

R.S.O. 1950, c. 92, Sched.; 1955, c. 15, s. 2.

CHAPTER 92

The Department of Agriculture Act

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Agriculture;

(b) "Minister" means the Minister of Agriculture.
R.S.O. 1950, c. 93, s. 1.

2.—(1) The department known as the Department of Agriculture is continued.

Department continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 93, s. 2, *amended*.

Minister to have charge

3. Subject to *The Public Service Act*, there may be appointed a Deputy Minister of Agriculture and such other officers, clerks and servants as the Minister deems necessary for the proper conduct of the business of the Department. R.S.O. 1950, c. 93, s. 3.

Deputy Minister and staff
R.S.O. 1960, c. 331

4. Subject to *The Executive Council Act*, the Minister has the direction and control of,

Powers of Minister
R.S.O. 1960, c. 127

(a) the administration of the law relating to agriculture in all its branches;

(b) the administration of appropriations under the Department;

(c) the Ontario Agricultural College;

(d) the Ontario Veterinary College,

and has such other powers and shall perform such other functions and duties as are assigned to him by the Lieutenant Governor in Council. R.S.O. 1950, c. 93, s. 4.

5.—(1) Upon the recommendation of the Minister, the Lieutenant Governor in Council may establish programmes for the encouragement of any branch of agriculture.

Establishment of programmes

Conditions
to services
or grants

(2) A programme may determine the conditions under which services are provided by the Department and expenses allowed or grants payable.

Fees

(3) A programme may require that fees be paid by persons engaged in the branch of agriculture to which the programme applies and may fix the amounts thereof. 1959, c. 25, s. 1.

Appointment
and re-
muneration
of outside
employees

6. Where any work of the Department is carried on elsewhere than at the seat of Government, the Minister may appoint such officers, clerks, servants and labourers as he deems necessary and may fix their salaries or other remuneration, and may designate the appropriation against which the same shall be charged, and the same are payable out of such appropriation accordingly. R.S.O. 1950, c. 93, s. 5.

Annual
report

7. The Minister shall in each year submit to the Lieutenant Governor in Council a report of the proceedings of the Department during the next preceding fiscal year, and such report shall be laid before the Assembly forthwith, but, if the Legislature is not at the time in session, then within thirty days after the commencement of the next session. R.S.O. 1950, c. 93, s. 6.

CHAPTER 93

The Department of Economics Act

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Economics;

(b) "Treasurer" means the Treasurer of Ontario. 1956,
c. 16, s. 1.

2.—(1) The department of the public service known as ^{Department} the Department of Economics is continued. 1956, c. 16, ^{continued} s. 2 (1), *amended*.

(2) The Treasurer shall preside over and have charge of ^{Treasurer} the Department. ^{to have}
^{charge}

(3) The Lieutenant Governor in Council may appoint a ^{Deputy} Deputy Minister of the Department. ^{Minister}

(4) The Lieutenant Governor in Council may appoint from ^{Staff} time to time such staff as is necessary for the proper conduct of the business of the Department. 1956, c. 16, s. 2 (2-4).

3.—(1) The function of the officers of the Department is ^{Function} to study, analyze, advise upon and make recommendations on matters pertaining to,

(a) economic and financial conditions and trends;

(b) economic and financial policy;

(c) fiscal relations between governments; and

(d) any other matters designated by the Lieutenant Governor in Council.

(2) In addition to the duties specified in or designated ^{Additional} under subsection 1, the officers of the Department shall ^{duties} perform such other duties as are from time to time assigned to them by the Treasurer. 1956, c. 16, s. 3.

4. The expenses of the Department in carrying out its ^{Expenses} objects shall be paid out of the moneys appropriated therefor by the Legislature. 1956, c. 16, s. 4.

CHAPTER 94

The Department of Education Act

1. In this Act,

Interpre-
tation

- (a) "board" means public school board, separate school board, continuation school board, high school board or board of education;
- (b) "Department" means the Department of Education;
- (c) "Minister" means the Minister of Education;
- (d) "regulations" means the regulations made under this Act. 1954, c. 20, s. 1, cls. (a, b, e, i).

2.—(1) The department of the public service known as the Department of Education is continued. Department continued

(2) The Minister shall preside over and have charge of the Department. 1954, c. 20, s. 3, *amended*. Minister to have charge

3. The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant Governor in Council. 1954, c. 20, s. 2. Administration

4.—(1) The Minister shall, after the close of the calendar year, file with the Provincial Secretary an annual report upon the affairs of the Department. Annual report

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1954, c. 20, s. 4. Tabling

5. For the purpose of calculating legislative grants, the Minister may add to the actual aggregate attendance of a school the number of days attendance lost by pupils, Credits for attendance in special cases

- (a) who left school to enlist in Her Majesty's Forces or to become employed in the production of food or

other essential war materials, and whose absence from school was in accordance with the regulations; or

- (b) who were absent from school on days regarded as holy days by the church or religious denomination to which they belong; or
- (c) who were absent from school because of the closing of one or more classrooms because of fire, flood or the breakdown of the school heating plant or a similar emergency which, in the opinion of the Minister, was unavoidable; or
- (d) who were absent from school in the month of June when their regular classroom work was discontinued because of the holding of examinations that they were not required to write. 1954, c. 20, s. 5.

Closing
of school
or class

6.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may order the closing of a school or any class thereof for a specified period.

Calculation
of grants

(2) Where a school or class is closed for a specified period under subsection 1, the school or class shall, for the purpose of calculating legislative grants, the cost of education of county pupils, and the fees, if any, of other pupils, be deemed to have been open during the period with a perfect aggregate daily attendance. 1954, c. 20, s. 6.

Scholarships
for study
outside
Ontario

7. There shall be payable out of the Consolidated Revenue Fund annually the sum of \$8,000 to be awarded by the Minister in accordance with the regulations as scholarships to residents of Ontario for the purpose of enabling them to pursue courses of study outside Ontario. 1954, c. 20, s. 7; 1957, c. 23, s. 1.

Guarantee of
debentures

8.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures issued by an elementary school board in Ontario or by a municipality in a territorial district for any school purpose for which the board or municipality is authorized to issue debentures.

Form of
guarantee

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council, and every guarantee given or purporting to be

given under this section is binding upon the Province and is not open to question upon any ground whatsoever.

(3) Any debenture issued by a school board or municipality, ^{Validity of guaranteed debentures} payment of which is guaranteed by the Province under this section, is valid and binding upon the school board or municipality by which it is issued and the ratepayers thereof, according to its terms, and the validity of any debenture so guaranteed is not open to question upon any ground whatsoever. 1954, c. 20, s. 8.

9. Notwithstanding anything in any Act fixing the rate ^{Fixing rate of interest on debentures, etc., held by Treasurer} of interest to be paid or credited to any school board by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a school board, the rate at which interest shall be allowed to, paid by or credited to a school board upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. 1954, c. 20, s. 9.

10.—(1) The Minister shall define the courses of study ^{Courses of study, reference books, etc.} in the prescribed subjects of Grade 13.

(2) The Minister may, Idem

(a) recommend for the guidance of boards and teachers ^{kindergarten course} the programme in kindergarten;

(b) define the courses of study, recommend courses of ^{Grades 1-12 courses} study for the guidance of boards and teachers, or permit boards and teachers to define courses of study to be used with the Minister's approval, in the prescribed subjects for Grades 1 to 12 inclusive;

(c) define courses of study and subjects to be taught in ^{courses for teachers' colleges, institutes} teachers' colleges and provincial technical and polytechnical institutes;

(d) recommend reference books and library books for ^{text and reference books} use by pupils, teachers and teachers-in-training;

idem

- (e) approve text-books for use in Grade 13, teachers' colleges, and provincial technical and polytechnical institutes;

school terms

- (f) determine the number of terms and the dates upon which each term begins and ends in respect of teachers' colleges, provincial technical and polytechnical institutes, and schools for the deaf and blind.

Application
R.S.O. 1960,
c. 349

- (3) An act of the Minister under this section is not a regulation within the meaning of *The Regulations Act*. 1954, c. 20, s. 10.

Powers of Minister:

11.—(1) The Minister may,

cost of teachers in training

- (a) pay out of any appropriation for teachers' colleges or for summer and winter courses for the training and instruction of teachers the travelling and other expenses and such per diem allowance as he may fix for living expenses of students attending such schools whenever he deems such payment necessary or desirable;

accept equivalent qualification

- (b) accept in lieu of any requirement prescribed for a teacher, head of a department, director, supervisor, supervisory officer or inspector, or for a candidate for a certificate or for admission to a school, such evidence of experience, academic scholarship or professional training as he may deem equivalent thereto;

temporary certificate

- (c) grant a temporary or interim certificate of qualification as a teacher to a person who, although not a British subject, is otherwise qualified and,

(i) has applied to become a British subject and whose application is pending, or

(ii) has filed a declaration of intention to become a Canadian citizen in accordance with the *Canadian Citizenship Act*;

R.S.C. 1952,
c. 33

letter of permission

- (d) grant a letter of permission to a board authorizing the board to employ an unqualified person as a

teacher if the Minister is satisfied that no qualified person is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister specifies therein;

- (e) suspend or cancel any certificate or diploma granted ^{suspend or cancel} under this Act or the regulations;
- (f) appoint as a commission one or more persons, as he ^{commission of inquiry} may deem expedient, to inquire into and report upon any school matter, and may confer upon such commission all the powers that may be conferred upon a commissioner appointed under *The Public R.S.O. 1960, c. 323* *Inquiries Act*;
- (g) submit a case on any question arising under *The secure legal opinion* *Schools Administration Act*, *The Public Schools Act*, *R.S.O. 1960, cc. 361, 330,* *The Separate Schools Act*, *The Secondary Schools and* *368, 362* *Boards of Education Act*, or this Act to a judge of the Supreme Court for his opinion and decision or, by leave of a judge of the Supreme Court, to the Court of Appeal for its opinion and decision;
- (h) determine all disputes and complaints laid before ^{determine disputes and complaints} him, the settlement of which is not otherwise provided for by law, and all appeals made to him from a decision of a principal, inspector or other school officer;
- (i) apportion and pay all sums received for educational ^{apportion federal grants} purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he may deem fit;
- (j) require employees of school boards to submit to ^{medical examinations} medical examinations;
- (k) make use of any elementary or secondary school ^{practice teaching} for the purposes of observation and practice teaching by teachers-in-training in any teachers' college or in the college of education established under section 16;
- (l) provide for courses of training for inspectors. ^{inspectors, training}

Termination
of contract
where wel-
fare of
school
involved
R.S.O. 1960,
c. 361

(2) Notwithstanding Part III of *The Schools Administration Act* or any other Act and notwithstanding anything in the contract between the board and the teacher, where a permanent or probationary teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed,

- (a) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the contract is terminated at the expiration of thirty days from the date the notice is given; or
- (b) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which he would otherwise be entitled, and the contract thereupon is terminated. 1954, c. 20, s. 11.

Regulations, **12.**—(1) Subject to the provisions of any statute in that behalf and to the approval of the Lieutenant Governor in Council, the Minister may make regulations with respect to schools or classes established under *The Public Schools Act*, *The Separate Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act*, or this Act, or any predecessor of any of such Acts, and with respect to all other schools supported in whole or in part by public money,

R.S.O. 1960,
cc. 330, 368,
361, 362

general

- 1. for the establishment, organization, administration and government thereof;

admit pupils

- 2. governing the admission of pupils;

auxiliary
pupils

- 3. respecting the examination and inspection of auxiliary classes, the dismissal of pupils therefrom, and the term of residence of pupils therein;

purchase
books

- 4. requiring boards to purchase books for the use of pupils;

accommoda-
tion and
equipment

- 5. prescribing the accommodation and equipment of buildings and the arrangement of premises;

bursaries

- 6. for the establishment and awarding of bursaries and types, classes and subclasses thereof, prescribing the terms and conditions thereof and the persons

- eligible therefor, for fixing the value or maximum value of any bursary or type, class or subclass thereof, and for authorizing the Minister to determine, subject to the maximum value, the amount to be awarded to an applicant where a maximum value has been prescribed;
7. for the establishment of the Provincial Student-Aid ^{Student-Aid Loan Fund} Loan Fund to be maintained by donations received for that purpose and by moneys appropriated by the Legislature for that purpose, for prescribing the terms and conditions of the loans and the persons eligible therefor, for defining the types, classes and subclasses of loans, for fixing the maximum loans and terms of repayment, for authorizing the Minister to determine the amount to be loaned to an applicant not exceeding the maximum provided in the regulations, and for providing the method of repayment of loans;
 8. for the establishment and regulation of cadet corps; ^{cadet corps}
 9. governing the granting of permanent, temporary, ^{certificates} interim, special and other certificates of qualification;
 10. authorizing the Minister to designate a high school ^{collegiate institute} as a collegiate institute and to redesignate a collegiate institute as a high school, and prescribing the conditions under which he may do so;
 11. prescribing the form of contract that shall be used ^{teacher's contract} for every contract entered into between a board and a permanent teacher or a probationary teacher or an itinerant teacher for the services of the teacher, and prescribing in the form of contract the terms and conditions of the contract;
 12. governing the establishment and maintenance of ^{schools on Crown land} public, high and vocational schools on lands held by the Crown in right of Canada or Ontario or an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools;

pupils on
Crown
lands

13. governing the attendance at elementary and secondary schools of pupils residing on lands held by the Crown in right of Canada or Ontario or an agency thereof, or on other lands that are exempt from taxation for school purposes, and governing the payment of the cost of education of such pupils;

transporta-
tion of
pupils on
Crown
lands

14. providing for assistance in the payment of the cost of education and transportation costs of elementary and secondary school pupils residing in the territorial districts or on lands held by the Crown in right of Canada or Ontario or an agency thereof, or on other lands that are exempt from taxation for school purposes;

tuition fees
on Crown
lands

15. fixing the method of calculating the cost of education of elementary and secondary school pupils residing on lands held by the Crown in right of Canada or Ontario or an agency thereof, or on other lands that are exempt from taxation for school purposes, and authorizing boards,

- (i) to charge those pupils a fee in accordance with that method, or

- (ii) instead of charging those pupils a fee, to enter into an agreement with the Crown, Crown agency or other owner of the lands for the payment of an amount in lieu of the fee;

examination
boards

16. providing for the establishment of supervising examination boards and for the appointment by the Minister of the members thereof, prescribing the duties thereof and the remuneration, including allowances for travelling and other expenses, to be paid to the members thereof;

examinations

17. governing the establishment and conduct of examinations and the settling of the results thereof, and prescribing the fees to be paid by candidates thereat;

fees of
examiners

18. prescribing the fees to be paid to presiding officers and examiners in connection with examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid;

19. for granting diplomas and certificates of standing; certificates
20. prescribing the subjects that shall be taught, and the subjects of study
subjects that may be taught, in Grades 1 to 13
inclusive;
21. prescribing subjects leading to diplomas and cer- subjects for diploma
tificates of standing;
22. providing for and governing the exchange of teachers exchange teachers
between Ontario and other parts of Canada and
between Ontario and other jurisdictions;
23. for the establishment and regulation of school school gardens
gardens;
24. for the establishment and regulation of school school libraries
libraries;
25. subject to the approval of the Minister of Health, medical and dental inspection
for the medical and dental inspection of pupils in
elementary schools where provision for such inspection
was inaugurated by the boards of such schools
before the 31st day of July, 1924, and in secondary
schools where such provision was inaugurated by the
boards of such schools before the 31st day of Decem-
ber, 1941;
26. respecting the use of schools for purposes of observa- practice teaching
tion and practice teaching by teachers-in-training;
27. prescribing the powers, duties and qualifications, powers and duties of teachers, etc.
and governing the appointment of, teachers, super-
visors, supervisory officers, heads of departments,
principals, inspectors, superintendents, bursars,
matrons, directors, school attendance officers and
other officials;
28. prescribing the duties of pupils; pupils
29. prescribing the qualifications and experience that qualification to teach, attend school, write exams
will be recognized for the purpose of,
 - (i) qualifying persons to teach,
 - (ii) admitting persons to schools, and
 - (iii) permitting persons to write examinations;

retarded
children

30. providing for assistance in the payment of the cost of education of children under eighteen years of age, whose mental capacity is incapable of development beyond that of a child of normal mentality at eight years of age, in classes conducted by parents' groups that are affiliated with the Ontario Association for Retarded Children;

attendance
officers,

31. prescribing the powers and duties of boards and township councils with respect to the appointment and duties of school attendance officers, providing for the issuing of home permits and employment certificates, and providing for the giving of notices and the making of returns in connection with school attendance;

forms

32. prescribing forms and providing for their use;

approve
texts

33. approving the text-books for use in Grades 1 to 12 inclusive;

transporta-
tion

34. governing the transportation of pupils to and from elementary and secondary schools;

idem

35. providing for assistance in the payment of transportation costs of persons residing in the territorial districts who are attending universities or other institutions of higher learning;

scholarships

36. establishing the number of scholarships and prescribing the terms and conditions under which they may be awarded and the courses of study to be pursued, in connection with the scholarships provided for under section 7;

mis-
cellaneous

37. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1954, c. 20, s. 12 (1); 1958, c. 21, s. 1 (1); 1960, c. 22, s. 1.

Student-Aid
Loan
contracts

- (2) Every contract executed by a person under twenty-one years of age that provides for the repayment of a loan made to such person out of the Provincial Student-Aid Loan Fund is binding upon such person and enforceable against him in the same manner and to the same extent as if he were over twenty-one years of age at the time he executed the contract. 1958, c. 21, s. 1 (2).

(3) Subject to the provisions of any statute in that behalf ^{Regulations, grants} and to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) providing for the apportionment and distribution of all moneys appropriated or raised by the Legislature for educational purposes;
- (b) prescribing the conditions governing the payment of legislative grants;
- (c) prescribing definitions of "approved cost" and "cost of operating" for the purpose of legislative grants to boards, and requiring that "approved cost" be subject to the approval of the Minister. 1954, c. 20, s. 12 (2).

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations with respect to ^{Regulations, community programmes, etc.} adult education, recreation, camping and physical education,

- (a) providing for programmes therefor;
- (b) governing the granting of municipal recreation directors' interim and permanent certificates, and governing the renewal of municipal recreation directors' interim certificates;
- (c) authorizing,
 - (i) municipal councils to appoint recreation committees with the approval of the Minister, or authorizing two or more municipal councils of municipalities having a combined population of under 25,000 to appoint joint recreation committees with the approval of the Minister,
 - (ii) recreation committees or joint recreation committees to appoint directors, assistants and secretaries,
 - (iii) joint recreation committees, or recreation committees in municipalities having a population of not less than 25,000, to appoint area recreation committees and area recreation directors, and

- (iv) two or more municipalities to enter into agreements,

for the purpose of programmes of recreation;

- (d) prescribing the composition of recreation committees, joint recreation committees and area recreation committees, and fixing the number or maximum number of members thereof, for the purpose of programmes of recreation;
- (e) prescribing definitions of joint recreation programme, joint recreation committee, municipal recreation programme, municipal recreation services, municipal recreation director, assistant municipal recreation director, recreation programme, recreation committee;
- (f) prescribing a definition of "approved maintenance and operating costs" for the purpose of legislative grants for programmes of recreation, and requiring that "approved maintenance and operating costs" be subject to the approval of the Minister;
- (g) providing for the apportionment and distribution of all moneys appropriated or raised by the Legislature for,
 - (i) programmes of adult education, recreation, camping and physical education,
 - (ii) leadership training camps, and
 - (iii) the maintenance of historical, literary and scientific institutions;
- (h) prescribing the conditions governing the payment of grants for,
 - (i) programmes of adult education,
 - (ii) programmes of recreation, camping or physical education, and providing for the approval of the Minister in any condition, or
 - (iii) the maintenance of historical, literary and scientific institutions;
- (i) authorizing the Minister to determine the number of assistants and area community programmes in respect of which grants may be paid for programmes of recreation;

- (j) authorizing the payment, with the approval of the Minister, of special grants for programmes of recreation, and fixing the amounts thereof. 1954, c. 20, s. 12 (3).

(5) In subsection 4, "physical education" includes recreation for crippled persons under the age of nineteen years. ^{Interpretation} 1954, c. 20, s. 12 (4).

13.—(1) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Labour of Canada, respecting vocational training as contemplated in the *Vocational Training Co-ordination Act* (Canada). ^{Vocational training agreements} R.S.C. 1952, c. 286

(2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the *Indian Act* (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act. 1954, c. 20, s. 13. ^{Pupils at Indian schools} R.S.C. 1952, c. 149

(3) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Labour of Canada, respecting the establishment, awarding and payment of bursaries and scholarships to students eligible therefor under the regulations. 1956, c. 17, s. 1. ^{Bursaries and scholarships}

14.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, name, maintain, conduct and govern schools for technical training in one or more branches of industry. ^{Establishment of technical institutes}

(2) For the purpose of subsection 1, the Minister may enter into an agreement with any organization representing one or more branches of industry. ^{Agreements}

(3) A school providing instruction in one branch of industry shall be known as a provincial technical institute and in more than one branch of industry as a provincial polytechnical institute. ^{Naming of institutes}

(4) The Minister shall be assisted in the conduct of a provincial technical institute by an institute board and the institute board shall be assisted by an advisory committee. ^{Conduct of technical institutes;}

(5) The Minister shall be assisted in the conduct of a provincial polytechnical institute by an institute board and the institute board shall be assisted by an advisory committee. ^{polytechnical institutes}

for each branch of industry in which training is given at the institute.

Cost of
establish-
ment and
maintenance

(6) The cost of the establishment, maintenance and conduct of a provincial technical or polytechnical institute shall be payable out of moneys appropriated by the Legislature or received from Canada for the purposes of technical education, and out of moneys contributed by any organization that has entered into an agreement under subsection 2.

Regulations
for
institutes

(7) Without restricting the generality of section 12, the Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations with respect to such institutes,

- (a) providing for the composition of institute boards and advisory committees, and for the appointment by the Minister of the members thereof;
- (b) prescribing the duties and powers of institute boards and advisory committees;
- (c) respecting the holding of meetings of institute boards and advisory committees, the manner in which the meetings are to be called and conducted and the procedure thereat;
- (d) for the election or appointment of chairmen and secretaries of institute boards or advisory committees, and prescribing their duties;
- (e) for the establishment, with the approval of the Minister, of full-time day courses of study, special and part-time day courses of study, and evening courses of study;
- (f) requiring pupils to pay registration, tuition and laboratory fees and fixing the amount and manner of payment thereof;
- (g) classifying persons who may be admitted from outside Ontario and prescribing the fees payable by members of each class and the manner of payment thereof;
- (h) requiring pupils enrolled in a special or part-time day course of study or an evening course of study to pay tuition fees, and authorizing boards to fix the amount and manner of payment thereof.

(8) The board of a provincial technical or polytechnical institute may accept in lieu of any diploma or other requirement prescribed for admission to a course of study at the institute, ^{Alternative admission requirements}

- (a) such evidence of academic standing or course of training as the principal and advisory committee deem equivalent thereto; or
- (b) evidence, satisfactory to the principal and advisory committee, that the applicant for admission is competent to undertake the course of study. 1954, c. 20, s. 14.

15.—(1) The Ontario School for the Deaf for the education and instruction of the deaf and partially deaf is hereby continued under the administration of the Minister. ^{Continuation of School for Deaf;}

(2) The Ontario School for the Blind for the education and instruction of the blind and partially blind is hereby continued under the administration of the Minister. 1954, c. 20, s. 15 (1, 2). ^{School for Blind}

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, maintain and operate one or more additional schools for the deaf or schools for the blind and shall designate the name of each school. 1960, c. 22, s. 2. ^{Additional schools}

(4) Without restricting the generality of section 12, the Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations with respect to the said schools, ^{Regulations for School for the Deaf or Blind}

- (a) prescribing the terms and conditions upon which pupils may,
 - (i) be admitted to, and remain in, a school, and
 - (ii) be discharged from a school;
- (b) authorizing the Minister to appoint a committee to hear and determine any question concerning the eligibility for admission of an applicant;
- (c) prescribing the fees, if any, that shall be paid in respect of pupils or any class or classes thereof;

- (d) authorizing the payment of part or all of the transportation costs of pupils whose parents or guardians reside in Ontario, and fixing the maximum amount that may be paid;
- (e) prescribing the manner in which pupils shall dress while attending a school;
- (f) authorizing a superintendent to specify the type and minimum amount of clothing that a parent or guardian shall provide for a pupil;
- (g) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit;
- (h) authorizing a superintendent to dismiss a pupil at any time for,
 - (i) misconduct or failure to make satisfactory progress in a school, or
 - (ii) serious or continued ill-health as certified by the duly qualified medical practitioner of the school;
- (i) authorizing the Minister to provide training for teachers in courses leading to a Certificate as Teacher of the Deaf or a Certificate as Teacher of the Blind.

Expenses

(5) The cost of the establishment, maintenance and conduct of the said schools shall be payable out of such moneys as may be appropriated by the Legislature for those purposes. 1954, c. 20, s. 15 (3, 4).

College of education

16.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

- (a) establish, maintain and conduct a college of education for the professional training and instruction of teachers; or
- (b) enter into an agreement with a university providing for the establishment, maintenance and conduct of such college of education by the university, upon such terms and conditions as the Minister and the university may agree upon,

and may enter into arrangements for the use of any elementary or secondary school for practice teaching purposes or for the

services of teachers in any secondary school as lecturers or instructors in the college.

(2) The cost of the establishment, maintenance and conduct ^{Expenses} of the college of education shall be payable out of such moneys as may be appropriated by the Legislature for that purpose. 1954, c. 20, s. 16.

17.—(1) Subject to the approval of the Lieutenant ^{Teachers'} Governor in Council, the Minister may, ^{colleges,}
^{etc.}

(a) establish, maintain and conduct teachers' colleges and summer and winter courses for the training and instruction of teachers; and

(b) enter into an agreement with any university or college providing for the establishment, maintenance and conduct of a teachers' college by the university or college, upon such terms and conditions as the Minister and the university or college may agree upon.

(2) The cost of the establishment, maintenance and con- ^{Expenses} duct of teachers' colleges and summer and winter courses shall be payable out of such moneys as may be appropriated by the Legislature for those purposes. 1954, c. 20, s. 17.

18.—(1) The Minister may establish, maintain and conduct ^{Leadership} camps for leadership training. ^{training}
^{camps}

(2) The cost of the establishment, maintenance and conduct ^{Expenses} of leadership training camps shall be payable out of such moneys as may be appropriated by the Legislature for that purpose. 1954, c. 20, s. 18.

CHAPTER 95

The Department of Energy Resources Act**1.** In this Act,

Interpretation

(a) "Department" means the Department of Energy Resources;

(b) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council as the Minister of Energy Resources. 1959, c. 26, s. 1.

2.—(1) The department of the public service known as the Department of Energy Resources is continued. Department continued

(2) The Minister shall preside over and have charge of the Department. 1959, c. 26, s. 2, *amended*. Minister to have charge

3.—(1) A deputy minister of the Department may be appointed by the Lieutenant Governor in Council. Deputy minister

(2) The Lieutenant Governor in Council may appoint such officers, clerks and servants as are deemed necessary from time to time for the proper conduct of the business of the Department. 1959, c. 26, s. 3. Staff

4. Notwithstanding any other Act, the Lieutenant Governor in Council may assign the administration of any Act to the Minister, and the Minister is responsible for the administration of any Act so assigned and may exercise the powers and shall perform the duties of the minister named in any Act so assigned. 1959, c. 26, s. 4. Assignment of Acts to Minister

5. In addition to the responsibilities that are assigned to the Minister under section 4, the Minister shall perform such functions and duties as are assigned to him from time to time by the Lieutenant Governor in Council. 1959, c. 26, s. 5. Additional functions

6. The expenses of the Department in carrying out its objects shall be paid out of the moneys appropriated therefor by the Legislature. 1959, c. 26, s. 6 (1), *amended*. Expenses

CHAPTER 96

The Department of Highways Act

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Highways;

(b) "Minister" means the Minister of Highways. 1957,
c. 24, s. 1.

2.—(1) The department of the public service known as ^{Department} the Department of Highways is continued. 1957, c. 24, s. 2, ^{continued}
part, amended.

(2) The Minister shall preside over and have charge of the ^{Minister} Department. 1957, c. 24, s. 2, *part.* ^{to have charge}

3. The Minister is responsible for the administration of ^{Adminis-} this Act and the Acts that are assigned or transferred to him ^{tration of} by the Legislature or by the Lieutenant Governor in Council. ^{Acts}
1960, c. 23, s. 1.

4. Contracts respecting any work or property under the ^{Enforce-} control of the Department that are entered into by the ^{ment of} Minister or by any other person duly authorized to enter ^{contracts} into them enure to the benefit of the Crown and may be enforced as if entered into with the Crown. 1957, c. 24, s. 4.

5. Every action or other proceeding for the enforcement ^{Who may} of a contract, for the recovery of damages for a tort or breach ^{bring} of contract, or for the trial of a right, in respect of property, ^{action} real or personal, under the control of the Department, shall be instituted in the name of the Attorney General. 1957, c. 24, s. 5.

6. The Minister may require a person having possession ^{Possession} of a map, plan, specification, estimate, report or other paper, ^{of maps,} book, drawing, instrument, model, contract, document, record ^{etc.,} or thing relating to a work under the control of the Depart- ^{relating to} ment, and not being private property, to deliver it without ^{highways} delay to the Department. 1957, c. 24, s. 6.

CHAPTER 97

The Department of Labour Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Industry and Labour Board;
- (b) "Department" means the Department of Labour;
- (c) "Deputy Minister" means the Deputy Minister of Labour; R.S.O. 1950, c. 95, s. 1, cls. (a-c).
- (d) "inspector" means an inspector appointed under this Act or any other Act or regulation administered by the Department; 1957, c. 25, s. 1.
- (e) "Minister" means the Minister of Labour. R.S.O. 1950, c. 95, s. 1, cl. (d).

2.—(1) The department of the public service known as the Department of Labour is continued.

Department
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 95, s. 2, *amended*.

Minister
to have
charge

3. The Lieutenant Governor in Council may appoint a Deputy Minister and such other officers, clerks and servants in the Department as are deemed necessary or expedient. R.S.O. 1950, c. 95, s. 3.

Deputy
Minister
and staff

4. The Deputy Minister shall perform such duties as are assigned to him by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 95, s. 4.

Duties of
Deputy
Minister

5. The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. 1960, c. 24, s. 1.

Adminis-
tration of
Acts

6. The Department shall,

Duties of
Department

- (a) collect such statistical and other information respecting trades and industries in Ontario as is deemed necessary or expedient from time to time;

statistics
and
information

distribution
of employ-
ment

- (b) ascertain the localities in which mechanics, artisans or workmen in any particular trade or industry are required and, wherever practicable, assist in supplying the demand for such work or labour;

sanitary
and other
conditions

- (c) ascertain and report upon sanitary and other conditions relating to the health, comfort and well-being of the industrial classes;

employment
bureaux

- (d) establish and maintain in the various centres of population throughout Ontario employment offices and similar agencies for obtaining suitable employment for persons, both male and female, in any of the trades, occupations or professions, and for procuring workers for employment in any of the trades, occupations or professions, and, subject to *The Employment Agencies Act*, to regulate all voluntary, private or municipal employment bureaux;

R.S.O. 1960,
c. 121

wages

- (e) ascertain and report upon the rates of wages paid to employees in the various trades and industries carried on in Ontario;

new
industries
in Ontario

- (f) inquire and report as to the establishment of new industries in Ontario in any case where, by reason of the production of raw material for such industry in Ontario or the immigration of persons skilled in the particular industry or other circumstances, it appears that such industry can profitably be carried on;

reporting
upon laws
in other
countries

- (g) inquire into, consider and report upon the operation of laws in force in other parts of the Commonwealth and in foreign countries, having for their objects the protection, technical training and welfare of the industrial classes, and make such recommendations and suggestions thereon as are deemed advisable;

changes in
the law

- (h) consider and report upon any petition for or suggestion of a change in the law of Ontario relating to labour and wages or any matter affecting the industrial classes, presented or made by any trades and labour council or other organization representing those classes or by any other person. R.S.O. 1950, c. 95, s. 6.

Annual
report

7.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

(2) The Provincial Secretary shall submit the report to ^{idem} the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 95, s. 7.

8.—(1) The Board shall consist of not more than three ^{Industry and Labour Board} members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chairman, and all of whom shall be officers of the Department.

(2) The Board is a body corporate and, with the approval ^{By-laws of Board} of the Lieutenant Governor in Council, may pass by-laws and regulations governing its proceedings.

(3) The Board shall administer, enforce and carry out any ^{Powers of Board} Act in which the Board is designated for the purpose in such Act or that is assigned to it by the Lieutenant Governor in Council. R.S.O. 1950, c. 95, s. 8.

9.—(1) The Deputy Minister may require from employers, ^{Powers of Deputy Minister as to obtaining information} workmen and other persons such information concerning rates of wages, hours of work, regularity of employment and other matters as he deems necessary for the proper carrying out of this Act or of any of the Acts or regulations administered by the Department.

(2) For the purpose of procuring such information or for the purpose of assisting the Department in carrying out any ^{Public inquiries by board} of the provisions of section 6, the Minister may authorize the Board or any member or members of the Board to conduct a public inquiry, and the Board or member or members thereof acting under such authority has, for the purpose of conducting such public inquiry, all the powers, rights and privileges that may be conferred upon a commissioner under *The Public Inquiries Act*.

R.S.O. 1960,
c. 323

(3) Any officer or inspector of the Department, acting under the written authority of the Deputy Minister, has right of ^{Right of access} access at all reasonable hours to any office, factory, shop, place of business or other premises for the purpose of carrying out this Act or any Act or regulations administered by the Department.

(4) Every person who refuses to furnish any return or ^{Offence} information that may be lawfully required, or who hinders or obstructs any officer or inspector in the performance of his duties under this Act or any of the Acts or regulations administered by the Department is guilty of an offence and on summary conviction is liable to a fine of \$20.

Falsifying
records

(5) Every person who falsifies his records or returns or supplies incomplete or untrue information is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$300. R.S.O. 1950, c. 95, s. 9.

Regulations
for
protection
of workmen

10.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make such regulations as are deemed necessary for the safety and protection of persons engaged,

- (a) on work in the construction of which men are employed in compressed air;
- (b) in the construction of tunnels and open caisson work;
- (c) in the construction of coffer dams and crib work in water or other places where pressure of sand, water or soil is likely to endanger human life,

and may make regulations providing for and prescribing the fees to be paid for inspection services furnished in connection with any work mentioned in this subsection. R.S.O. 1950, c. 95, s. 10 (1); 1960, c. 24, s. 2.

Regulations
re ionizing
radiation

(2) The Lieutenant Governor in Council may make regulations for the protection of the health and safety of persons from the effects of ionizing radiation used in industry or commerce,

- (a) classifying sources of ionizing radiation;
- (b) regulating the processing, installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation or any class of them;
- (c) requiring notice of any matter respecting the processing, installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation or any class of them;
- (d) requiring drawings and specifications showing protective measures concerning sources of ionizing radiation;
- (e) requiring physicians or other persons to furnish to a designated person information concerning the exposure of any person to ionizing radiation in excess of a prescribed maximum;

- (f) requiring and prescribing the medical examination of persons who have or may come in contact with ionizing radiation, prescribing by whom the cost of the examination is to be borne, and requiring a report of the examination to a designated person;
- (g) requiring and regulating the supervision of the processing, use, installation, movement, handling, maintenance, storage or disposal of sources of ionizing radiation, or any class of them, by qualified persons and prescribing their qualifications;
- (h) providing for and requiring the registration of any specified persons engaged in the processing, installation, use, movement, handling, maintenance, storage or disposal of a source of ionizing radiation, and prescribing the fees therefor;
- (i) defining "vicinity" when used with respect to sources of ionizing radiation or any class of them, and regulating or prohibiting use of the vicinity of sources of ionizing radiation;
- (j) designating classes of persons and regulating or prohibiting the employment of any person or class of persons in the processing, installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation, or in the vicinity of sources of ionizing radiation;
- (k) excluding any class of sources of ionizing radiation or any premises from the application of any or all of the regulations made under this section;
- (l) prescribing forms and providing for the use thereof.

(3) Regulations made under this section shall be deemed to be in addition to and not in contradiction of or in substitution for regulations made under any other Act dealing with the safety of workmen and employees. 1957, c. 25, s. 3.

11. Whenever an inspector appointed under this Act or under any of the Acts or regulations administered by the Department is of the opinion that any work or installation to which any such Act or regulation applies, or any part of such work or installation, is being carried on or has been installed in such manner as to be dangerous to life or property, he may, by written order to the employer, person, firm or

Other
regulations
not inter-
fered with

Stopping
work when
conditions
unsafe

corporation responsible for such work or installation, or to the contractor for any part thereof, order the immediate cessation of the work or operation of the plant or equipment, or any part thereof, that he considers unsafe. R.S.O. 1950, c. 95, s. 11.

Offences

12. Every person who contravenes any of the provisions of this Act or the regulations or any notice or direction made thereunder is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than twelve months, or to both. 1957, c. 25, s. 4.

CHAPTER 98

The Department of Municipal Affairs Act

PART I

1. In this Act,

Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Department" means the Department of Municipal Affairs;
- (c) "Deputy Minister" means the Deputy Minister of Municipal Affairs;
- (d) "local board" means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;
- (e) "Minister" means the Minister of Municipal Affairs;
- (f) "municipality" means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes in an unorganized township or unsurveyed territory;
- (g) "public utility" means a waterworks, gasworks, including works for the transmission, distribution and supply of natural gas, electrical power or energy works, or system for the generation, transmission or distribution of electric light, heat or power, a telephone system, a street or other railway system, a bus or other public transportation system or any

other works or system for supplying the inhabitants generally with necessities or conveniences that are vested in or owned, controlled or operated by a municipality or municipalities or by a local board. R.S.O. 1950, c. 96, s. 1; 1952, c. 19, s. 1.

Department
continued

2.—(1) The department of the public service known as the Department of Municipal Affairs is continued.

Minister
to have
charge

(2) The Minister shall preside over and have charge of the Department and has power to act for and on behalf of the Department. R.S.O. 1950, c. 96, s. 1 (1), *amended*.

Deputy
Minister

(3) A Deputy Minister of the Department shall be appointed by the Lieutenant Governor in Council.

Staff

(4) The Lieutenant Governor in Council may also appoint such officers, clerks and servants as from time to time are deemed necessary for the proper conduct of the business of the Department. R.S.O. 1950, c. 96, s. 2 (2, 3).

Jurisdiction
R.S.O. 1960,
c. 274

3.—(1) The Department shall administer all Acts in respect to municipal institutions and affairs, including *The Ontario Municipal Board Act*.

Other
statutes

(2) The Department shall administer such other Acts as are specified in this Act or are from time to time designated by the Lieutenant Governor in Council.

Municipal
affairs

(3) The Department shall exercise general oversight over municipal institutions and their administration and such special oversight and powers in relation thereto as are provided in or under the authority of this or any other general or special Act, but nothing herein shall be deemed to divest the Board of any jurisdiction or powers conferred on it by this or any other Act. R.S.O. 1950, c. 96, s. 3.

Housing
Acts
1919, c. 54,
1920, c. 84

4. *The Ontario Housing Act, 1919* and *The Municipal Housing Act, 1920* and amendments thereto, respectively, shall be administered by the Department and, for the purposes of such Acts and the regulations made thereunder, the Deputy Minister shall hereafter be the director named and referred to in such Acts. R.S.O. 1950, c. 96, s. 4.

Annual
report

5.—(1) The Minister shall, after the close of each year, file with the Provincial Secretary an annual report upon the affairs of the Department.

(2) The Provincial Secretary shall submit the report to ^{Tabling} the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1951, c. 19, s. 1.

6. The Deputy Minister and such of the officers of the ^{Powers of} Department as are authorized by the Lieutenant Governor in ^{inquiry} Council for any of the purposes of the Department or of any Act that it administers have all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. ^{R.S.O. 1960, c. 323} R.S.O. 1950, c. 96, s. 6.

7. The Lieutenant Governor in Council may appoint com- ^{Committees} mittees composed of one or more persons for any purpose relating to municipal matters. 1958, c. 22, s. 1.

PART II

8. The jurisdiction formerly exercised by the Bureau of ^{Transfer of} Municipal Affairs and transferred by Part IV of *The Ontario* ^{Bureau of} *Municipal Board Act, 1932* to the Board and transferred ^{Municipal} *by section 8 of The Department of Municipal Affairs Act, 1935* ^{Affairs} ^{1932, c. 27,} ^{1935, c. 16} to the Department shall be exercised by the Department. R.S.O. 1950, c. 96, s. 7, *amended*.

9. The Lieutenant Governor in Council may make regula- ^{Regulations} tions,

- (a) governing the exercise by the Department of the powers conferred on the Department by clause *j* of section 10;
- (b) prescribing the fees payable for licences under clause *j* of section 10. R.S.O. 1950, c. 96, s. 8.

10. The Department may,

^{Powers of} Department ^{re:}

- (a) prescribe and regulate the system of estimates, book- ^{municipal} ^{accounting} keeping and accounting to be adopted by municipalities, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of municipalities shall be kept, and the manner in which all funds and moneys thereof shall be accounted for;

municipal
returns

- (b) prescribe the forms, returns, statements and information to be made and furnished by municipalities to the Department, annually, periodically or otherwise, and the times when and by whom they shall be made;

municipal
audit

- (c) prescribe and regulate the system of auditing of the accounts, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues, expenditures, funds and moneys of municipalities and the reports, returns, statements and information to be made and furnished by municipal auditors and otherwise with respect to the performance of their duties;

compiling
statistics,
etc.

- (d) collect, compile, analyze and record such statistical and other information relating to the financial and other affairs of municipalities as may be useful;

publishing
reports, etc.

- (e) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of disseminating information and advice in relation to municipal affairs as may be useful;

report on
municipal
government,
etc.

- (f) study, report and advise upon the system of municipal institutions and the government and administration of municipal affairs or upon the government and administration of municipal affairs in any municipality or municipalities;

incidental
powers

- (g) perform and do all things necessary or incidental to any of the aforesaid purposes;

advisory
powers

- (h) effect improvement generally in the conduct and administration of municipal affairs and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal administration, financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information;

powers of
investiga-
tion

- (i) inquire at any time into any or all of the affairs, financial and otherwise, of a municipality or local board and hold such hearings and make such investigations in respect thereof as appear necessary or expedient in the interests of such municipality, its ratepayers, inhabitants and creditors, and particularly to make and hold such inquiries, hearings and

investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations;

- (j) grant upon payment of the prescribed fee a licence ^{licensing municipal auditors} to every person whom the Department deems qualified to perform the duties of a municipal auditor, and refuse, suspend or revoke any such licence. R.S.O. 1950, c. 96, s. 9; 1958, c. 22, s. 2.

11. The Department may, with respect to any of the ^{Variations in systems and forms} matters mentioned in clauses *a*, *b* and *c* of section 10, prescribe different systems, methods and forms for the several classes of municipalities or for any municipality. R.S.O. 1950, c. 96, s. 10.

12.—(1) The Department may require each municipality ^{Notification of provincial grants} in each year to notify every person whose name appears on its collector's roll, in such manner, form and detail as the Department may require, of all payments estimated to be made by the Province in that year to the municipality and its local boards, including in such estimated payments the amounts, computed in such manner as the Department may require, by which the municipality and any of its local boards benefit by reason of payments by the Province to a metropolitan municipality or a county, or a local board thereof, or to a local board that functions in more than one municipality, and the Department may require the inclusion in the notice of such other information relative to provincial grants and municipal tax levies as it deems advisable.

(2) Where a municipality fails to comply with any re- ^{Withholding of grants} quirement under this section, the Treasurer of Ontario may withhold any moneys payable to the municipality or any local board thereof until the municipality has complied with such requirement. 1954, c. 21, s. 1.

13. The Department may in respect of any municipality ^{Powers re assessment rolls, tax collection procedures, etc.} or class thereof, notwithstanding any other Act,

- (a) prescribe the form of assessment returns, assessment rolls or collector's rolls and the particulars to be set down therein, or combine or vary them from time to time;
- (b) order that the tax arrears procedures of this Act shall apply and that the tax sale procedures of *The R.S.O. 1960, c. 23* *Assessment Act* shall not apply, and in such case the use or disposition of land vested in the municipality

under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Department. R.S.O. 1950, c. 96, s. 11.

Duty of members of council, local boards and their officers

14. Every municipality and every member of the council or a local board thereof and every officer thereof shall comply with any system, methods or forms prescribed under this Part to be adopted, kept or made by such municipality, local board or by the class of municipalities or local boards of which such municipality or local board is one. R.S.O. 1950, c. 96, s. 12.

Adoption of other satisfactory system of accounting, auditing, etc.

15. A municipality that has adopted a system of estimates, bookkeeping, accounting or auditing that the Department is satisfied to approve may continue such system until otherwise directed by the Department, and until such time it is not necessary for the municipality to comply with any system prescribed under this Part. R.S.O. 1950, c. 96, s. 13.

All returns to be made to the Department

16.—(1) All returns required by any Act to be made to the Secretary of the Bureau of Industries or to the Bureau of Municipal Affairs shall be made to the Department.

Change of references

(2) Where in any Act reference is made to the Director of the Bureau of Municipal Affairs, such reference shall be deemed to be made to the Department. R.S.O. 1950, c. 96, s. 14.

Provincial municipal audit

17.—(1) The Department, upon its own initiative or whenever requested by any municipality expressed by resolution of its council, or on a petition in writing signed by not less than fifty ratepayers assessed as owners and resident in a municipality, may direct a provincial municipal audit of the financial affairs of the municipality.

Extent of audit

(2) Any direction given by the Department may extend to an audit of all the financial affairs of a municipality or may be limited to the financial affairs of any local board thereof, or to any specified phase of such financial affairs or to any specified books, accounts, registers, records, vouchers, receipts, funds, money or financial transactions, kept by or under the charge of any officer of the municipality designated by the Department. R.S.O. 1950, c. 96, s. 15.

Appointment of auditor

18. An audit directed to be made under this Part may be made by any officer of the Department, or by a competent auditor appointed by the Minister, and the officer and person so appointed for the purposes of such audit have all the powers mentioned in section 19. R.S.O. 1950, c. 96, s. 16.

19. For the purposes of any audit the officer of the Department or other person appointed to make the audit may require the production of all or any books, records and documents that may in any way relate to the affairs of the municipality that are the subject of the audit, and inspect, examine and audit and copy them, and may require any officer of the municipality and any other person to appear before him and give evidence on oath touching any of such affairs, and for such purpose has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 96, s. 17. Powers of auditor
R.S.O. 1960,
c. 323

20. Upon completion of an audit under this Part, the auditor shall report thereon in writing to the Deputy Minister, who shall forthwith transmit a copy of the report to the municipality. R.S.O. 1950, c. 96, s. 18. Report on audit

21. The Department, as a result of an audit of the affairs of a municipality made under this Part, may make such orders as it sees fit requiring the municipality to carry out, put into effect, observe, perform or enforce such matters or things as the audit has disclosed as being necessary or desirable in the interests of the municipality or with respect to the due accounting for, collection or payment of any of its assets, liabilities, revenues, expenditures, funds or money or otherwise in any respect as the order of the Department may provide. R.S.O. 1950, c. 96, s. 19. Powers of Department as a result of an audit

22. The Department may fix the fees and allowances for expenses payable with respect to any audit of the affairs of a municipality under this Part, and the amount so fixed shall forthwith be paid by the municipality. R.S.O. 1950, c. 96, s. 20. Fees for audit

23. Nothing in this Part gives to the Department any jurisdiction with respect to any of the affairs of a municipal utility commission, the exclusive jurisdiction over which is by statute conferred upon The Hydro-Electric Power Commission of Ontario. R.S.O. 1950, c. 96, s. 21. Exception as to municipal hydro-electric commissions

24. Nothing in this Part affects or impairs any security given by an officer of a municipality for the due and faithful performance of the duties of his office, or relieves his sureties from liability in case of his default therein, or relieves any municipality from its duty to appoint competent auditors. R.S.O. 1950, c. 96, s. 22. Obligations of officers' sureties not affected, etc.

25. Where a municipality fails, neglects or refuses to make or provide to the Department any form or return, statement or information prescribed or ordered made under this Part, Power to obtain returns on failure of municipality to make them

the Deputy Minister may authorize some person to make and furnish the same at the expense of the municipality. R.S.O. 1950, c. 96, s. 23.

Offence

26. Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any wilful breach of any of the provisions of this Part or of any order of the Department made thereunder is guilty of an offence and on summary conviction, in addition to any other penalty provided by law, is liable to a fine of not less than \$20 and not more than \$200 and, if a member of a council or a local board, is, upon conviction, disqualified from holding any municipal office for a period of two years. R.S.O. 1950, c. 96, s. 24.

PART III

SPECIAL JURISDICTION OVER DEFAULTING MUNICIPALITIES

Interpre-
tation

27. In this Part,

- (a) "improved land" means a parcel of land separately assessed that has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (b) "registrar" means the registrar of a registry office;
- (c) "registry office" means the registry office of the registry division for the county or district in which a municipality subject to this Part is situate;
- (d) "sheriff's office" means the office of the sheriff for the county or district in which a municipality subject to this Part is situate;
- (e) "vacant land" means a parcel of land separately assessed that has no building thereon, but does not include any improved land. R.S.O. 1950, c. 96, s. 25.

Special
municipal
jurisdiction
of Board

28.—(1) The Board has and may exercise the special jurisdiction and powers conferred by this Part, whenever, upon request of the Department or of a municipality expressed by resolution of its council, or upon request of the creditors of a municipality having claims representing not less than 20 per cent of its indebtedness, including debenture debt, it is satisfied upon inquiry that the municipality,

- (a) has failed to meet and pay any of its debentures or interest thereon as the same became due and after payment thereof has been duly demanded; or

(b) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the municipality; or

(c) has or may become financially involved or embarrassed so that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures.

(2) In the course of an inquiry the Board may investigate any or all of the affairs of a municipality. Partial or full inquiry

(3) The Board may exercise such powers with respect to any separate school board of any municipality that has not been made subject to this Part, upon request expressed by resolution of the school board. separate school board R.S.O. 1950, c. 96, s. 26.

29.—(1) If upon inquiry the Board is of opinion that the circumstances so warrant or appear to render desirable, it may make such order as it deems proper or necessary to vest in the Department control and charge over the administration of all the affairs of the municipality as set forth in the order and to declare that thereafter and until the Board otherwise determines and orders such municipality is subject to this Part. Power of Board to vest control over municipal administration in Department

(2) During such time as the Deputy Minister is a member of the Board he shall not sit as a member thereof with respect to any application or matter before the Board under this Part. Deputy Minister not to sit as member of Board R.S.O. 1950, c. 96, s. 27.

30.—(1) Except as otherwise provided in this Part, the Department has and may exercise the powers conferred on it by this Part and such additional powers as by any order of the Board or by the terms of any agreement entered into under the authority of this Part may be conferred on it, and may do all things necessary or incidental to the exercise of any such powers. Powers of Department

(2) The jurisdiction and powers to be exercised under this Part by the Department extend to and include not only control over all the affairs of the corporation of the municipality, but also over all the affairs of every local board of the municipality, unless an order made by the Board otherwise expressly declares and directs. Declaration as to jurisdiction of Department R.S.O. 1950, c. 96, s. 28.

Appeals from
orders of
Department

31. The council or a local board or any creditor dissatisfied with any order of the Department may within five days after the order is transmitted to the head of the municipality, or its clerk or treasurer or, in the case of a local board, to its chairman or secretary, appeal therefrom to the Minister, who may himself dispose finally of the appeal or direct the same to be disposed of by the Board. R.S.O. 1950, c. 96, s. 29.

Notice to
be given of
municipality
subject
to this Part

32. Where a municipality has become subject to this Part, notice thereof shall be given in *The Ontario Gazette* and in such one or more newspapers, published in or near the municipality and elsewhere, and to such persons and in such form as the Board may direct. R.S.O. 1950, c. 96, s. 30.

Stay of
actions
against
municipality
without
leave of
Board

33.—(1) When notice has been published in *The Ontario Gazette* that a municipality is subject to this Part, such publication operates as a stay of all actions or proceedings pending against the municipality and as a stay of execution, as the case may be, and thereafter, without leave of the Board, no action or other proceeding against the municipality shall be commenced or continued nor shall a levy be made under a writ of execution against the municipality.

Suspension
of operation
of statutes of
limitation

(2) Where the commencement or continuance of any action or proceeding or the making of any levy under a writ of execution is prevented or stayed under this section, the time during which such prevention or stay continues shall not be computed for the purposes of any statute or law of limitations until leave of the Board to commence or continue such action or proceeding or make such levy is obtained, but the person having the right of action or to take any proceeding or to make a levy under a writ of execution shall, upon the removal of the prevention or stay, have the same length of time within which to take action or proceeding or make a levy under a writ of execution, as the case may be, as he had when such prevention or stay came into operation, but this subsection does not apply unless application is made to the Board for approval of the continuance or commencement of any such suit, action or proceeding, within the time so limited as aforesaid by statute or law of limitations and such approval is refused.

Where order
made under
s. 36 (1) (b, j)

(3) Subsection 1 does not apply to a municipality that is subject to this Part after the Board has made an order under clause *b* or *j* of subsection 1 of section 36 with respect to the municipality. R.S.O. 1950, c. 96, s. 31.

Existing
liens not
taken away

34. Nothing in this Part takes away any lien, hypothec or other charge, if any, in existence and subsisting on the

18th day of April, 1953, with respect to any municipality upon or against any revenue or other asset of the municipality and the same continues to exist until it is satisfied and discharged. R.S.O. 1950, c. 96, s. 32, *amended*.

35. The Department with respect to the municipality and every local board thereof has control and charge over the exercise by any of them of any of their powers and over the performance by any of them of any of their duties and obligations with respect to,

- (a) the appointment and dismissal of its officers, employees and servants, and their powers, duties, salaries and remuneration; Control exercisable by Department
- (b) the collection, receipt, application and payment of its revenues and expenditures; municipal officers
- (c) the keeping, investment, use, application, payment and disposition of all sinking funds and of the moneys belonging thereto and of all rates levied and moneys collected for the purposes of any such sinking fund; revenues and expenditures
- (d) the system of accounting and audit, and the dealing with its assets, liabilities, revenues and expenditures; sinking funds
- (e) the making of and the manner and times for making the assessment and assessment rolls and of appeals therefrom; accounting and audit
- (f) the yearly or other estimates and the form, preparation and completion thereof, and the times when the same shall be made; assessment
- (g) the amounts to be provided for and included in the yearly or other estimates, whether the same are to be provided by taxation or otherwise; what estimates shall include
- (h) the imposition, rating, levying and collection of all rates, assessments and taxation, the mode and times for collecting the same and the allowance of discounts or imposition of penalties thereon, and for the making and return of the collector's roll; rates and collection thereof
- (i) the borrowing of moneys for the current expenditures of the corporation until the taxes are collected; borrowings
- (j) subject to *The Power Commission Act*, the rates, rents and charges imposed, levied or collectable for supply or service of any public utility; utility rates R.S.O. 1960, c. 300

licence and
permit fees

(*k*) the imposition, charging and collection of all licence, permit or other fees, charges and expenses;

sale of
assets

(*l*) the sale or other disposition of any of its assets; and

general

(*m*) without being limited by the foregoing, generally with respect to any matter in any way affecting or pertaining to its affairs and their administration.
R.S.O. 1950, c. 96, s. 33.

Powers of
Board with
respect to
debt

36.—(1) Where a municipality has become subject to this Part, the Board, with respect to the debenture debt and debentures of the municipality and interest thereon and with respect to any other indebtedness thereof, has power to authorize or direct,

(*a*) the consolidation of the whole or any portion thereof;

(*b*) the issue, on such terms and conditions, in such manner and at such times as the Board may approve, of debentures, certificates or other evidences of indebtedness, in substitution and exchange for any outstanding debentures or in payment and satisfaction of the whole or any portion of such other indebtedness, and compulsory acceptance of such debentures, certificates or other evidences of indebtedness in payment and satisfaction of such outstanding debentures or other indebtedness;

(*c*) the issue of new debentures to cover any such consolidation;

(*d*) the retirement and cancellation of the whole or any portion of the existing debenture debt and outstanding debentures, upon the issue of new debentures to cover the same or in exchange therefor;

(*e*) the terms, conditions, places and times for exchange of new debentures for outstanding debentures;

(*f*) the postponement of or variation in the terms, times and places for payment of the whole or any portion of the debenture debt and outstanding debentures and other indebtedness and interest thereon and variation in the rates of such interest;

(*g*) the cancellation, increase, decrease or other variation in the levy and collection of any assessment, rate

or taxation, rent or charge imposed to meet, pay and discharge any debenture debt, debentures, or other indebtedness, and interest thereon, and to vary the basis, terms and times of payment thereof;

- (h) the creation and setting aside of sinking funds and special reserves out of any portion of the revenues of the municipality for meeting, paying and discharging its debenture debt, debentures or other indebtedness or any portion thereof or interest thereon;
- (i) the custody, management, investment and application of sinking funds, reserves and surpluses;
- (j) the ratification and confirmation of any agreement, arrangement or compromise entered into with its creditors or any of them respecting its debenture debt, debentures or other indebtedness or any portion thereof and interest thereon;
- (k) any variation, amendment or cancellation of any order made by it under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by it under this section;
- (l) an interim plan, pending a final order or plan with respect thereto, which may cancel all or any portion of interest in arrear and may alter, modify or compromise the rights of debenture holders or other creditors during any period of time between the date of default and the end of the fifth year following the date of the order of the Board.

(2) The Board shall not make any order under clause *l* of Limitation subsection 1 unless creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of such order.

(3) Where a municipality has become subject to this Powers of Board with respect to debt Part, the Board, with respect to the debenture debt and debentures of such municipality and interest thereon and with respect to any other indebtedness thereof, may,

- (a) authorize or direct any municipality, whether or not it has become subject to this Part, to continue to guarantee any such debentures notwithstanding

any postponement or variation in the terms, provisions and time of payment thereof, and to guarantee any new debentures issued in substitution and exchange therefor;

- (b) authorize or direct any municipality, whether or not it has become subject to this Part, to assume and pay by the issue of debentures or otherwise a share of any liability in respect of which such municipality may be jointly or jointly and severally liable with any other municipality, which share may be either in full satisfaction of such liability of such municipality or on account thereof, and, if on account, the Board may order that provision be made for further payment in respect thereof;
- (c) summon and enforce the attendance of such persons as the Board thinks fit to summon,

and the Board shall direct that reasonable notice be given of any application under this subsection to every person whose interests it deems to be directly affected thereby and every order made under this subsection is binding upon every such person. R.S.O. 1950, c. 96, s. 34.

Separate
school
boards

37. The Board, upon the application of the separate school board of a municipality that has been made subject to this Part or of the separate school board of any other municipality where such board has been made subject to this Part, although the municipality itself has not been made so subject, has power to make orders under and in accordance with the provisions of section 36 with respect to the debenture debt, debentures and other indebtedness of the separate school board and interest thereon. R.S.O. 1950, c. 96, s. 35.

Publication
of notice of
intention to
exercise
powers

38.—(1) Where the Board, upon application to it by the Department or the council or a separate school board or any of the creditors of the municipality, intends to exercise any of the powers conferred on the Board under subsection 1 of section 36 or section 37, it shall, before so doing, give or direct that there be given notice of such intention in *The Ontario Gazette* and by such other publication and to such persons and in such manner as to the Board seems proper, and such notice shall state the time and place when the matter is to be dealt with by the Board, which time shall be not less than two months after the notice is published in *The Ontario Gazette*.

(2) Subsection 1 does not apply with respect to any matter that is merely incidental to the exercise of any of such powers. Subs. 1 does not apply to incidental matters

(3) The Board shall not make any order under subsection 1 of section 36 if objection in writing to the making of such order is filed with the Board by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the municipality or separate school board, including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable. Objection to be filed with Board

(4) If creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of any order of the Board under subsection 1 of section 36, it is not necessary that two months elapse as required under subsection 1. Approval by creditors

(5) When a matter is being dealt with by the Board under this section and the Board intends to vary the terms thereof, it shall, before so doing, give or direct that there be given notice of such intention to such persons and in such manner as to the Board seems proper, and such notice shall state the time and place when such variation is to be dealt with by the Board, which time shall not be less than two weeks after the notice. R.S.O. 1950, c. 96, s. 36. When matter to be varied

39. After an order of the Board has been made under section 36, no portion of the debenture debt of the corporation represented by debentures ordered to be cancelled, retired or exchanged forms part of its debt within the meaning of any Act limiting its borrowing powers. R.S.O. 1950, c. 96, s. 37. Debenture debt not to form part of debt after order of Board

40. The municipality may, with the approval of the Department, enter into agreements with any person with whom the municipality has previously entered into any agreement, contract or obligation which or some term, provision or obligation of which remains in whole or in part or in any manner to be observed, performed or carried out by the municipality, for the variation, amendment or cancellation of any such subsisting agreement, contract or obligation. R.S.O. 1950, c. 96, s. 38. Variation or cancellation of subsisting agreements

Department
to approve
debenture
issues

41.—(1) Without the approval of the Department first being obtained, the municipality shall not, under any special or general Act, exercise or be required to exercise any of its powers if such exercise will or may require money to be provided by the issue of debentures of the corporation.

Approval of
debenture
by-laws

(2) The municipality may, with the approval of the Department, pass by-laws providing for the issue of debentures and to authorize the hypothecation or sale thereof, but no such by-law has any force and effect until approved by the Department. R.S.O. 1950, c. 96, s. 39.

Assent of
electors not
requisite

42. It is not necessary that the assent of the electors of the municipality or of those thereof qualified to vote on money by-laws be obtained with respect to any by-law of the municipality or the issue thereunder of any debentures if such by-law is approved by the Department. R.S.O. 1950, c. 96, s. 40.

Department
to have
control over
moneys and
their
application

R.S.O. 1960,
c. 222

43. The Department has full charge and control over all moneys belonging to the municipality and received by any person for or on its behalf and such moneys shall be deposited in a chartered bank, the Province of Ontario Savings Office or a loan or trust company registered under *The Loan and Trust Corporations Act* to be designated by the municipality, and when so deposited shall only be applied, used, transferred and withdrawn for such purpose, in such manner and at such time or times as the Department may approve and direct, and all cheques drawn and issued by the municipality shall be signed and countersigned by such persons and in such manner as the Department may authorize, and no moneys belonging to or revenues of the municipality may be appropriated, applied, paid, used, transferred or withdrawn by any person except with the approval of or otherwise than as directed by the Department. R.S.O. 1950, c. 96, s. 41.

Approval of
Department
necessary
to levy rate

44.—(1) Notwithstanding any general or special Act or any by-law of the municipality, only such rates, assessments or amounts shall be imposed, rated, levied or directed so to be upon the rateable property in the municipality or upon any part thereof as the Department approves or directs.

County rates
to be
provided as
Department
may direct

(2) Nothing in this Part relieves a municipality from the obligation to ultimately provide and pay to the county of which it forms or has formed part the amounts of all county rates heretofore or hereafter directed to be levied by the county in such municipality with interest thereon at such rate as the county may have been obliged to pay upon any money borrowed by it upon debentures or otherwise until payment is made, and the payment of such amounts with

interest shall be made as and when the Department may direct.

(3) The council of a county by a vote of two-thirds of all the members thereof may accept in full settlement and payment of the county rates owing by any municipality that is subject to this Part an amount less than the whole amount thereof. R.S.O. 1950, c. 96, s. 42.

45. Notwithstanding *The Assessment Act*, the court of revision for the municipality shall consist of three members to be appointed by the council with the approval of the Department, and the members need not necessarily be members of the council. R.S.O. 1950, c. 96, s. 43.

46. The collector shall return his roll to the treasurer on or before such day as the Department may direct. R.S.O. 1950, c. 96, s. 44.

47.—(1) Where any part of the taxes on any vacant land within the municipality remains unpaid on the 31st day of December in the year next following that in which the taxes were levied, such vacant land vests in and becomes the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8.

(2) Where any part of the taxes on improved land in the municipality remains unpaid on the 1st day of January in the third year following that in which the taxes were levied, such improved land vests in and becomes the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8.

(3) The treasurer, with respect to vacant land upon which any part of the taxes remains unpaid after the time mentioned in subsection 1 and with respect to improved land upon which any part of the taxes remains unpaid after the time mentioned in subsection 2, may register in the registry office a certificate to be known as a tax arrears certificate (Form 1), setting forth therein a description of the vacant land or improved land, as the case may be, and the amount of all unpaid taxes, with the amount of all penalties, interest and costs added thereto, and thereupon the land described in the certificate vests in and becomes the property of the municipality, its successors and assigns, in fee simple, clear of and free from all other estate, right, title or interest, subject only to the right of redemption hereinafter provided and to subsections 8, 10 and 11. R.S.O. 1950, c. 96, s. 45 (1-3).

Notice of
registration
certificate

(4) Immediately upon registration of a tax arrears certificate, the treasurer shall cause to be sent by registered mail to the last known address of the assessed owner of the land therein described and to all persons appearing by the records of the registry or land titles office and the sheriff's office to have an interest therein a written notice (Form 2) of the registration of such certificate and of the last day for redemption of the land. R.S.O. 1950, c. 96, s. 45 (4); 1952, c. 19, s. 3.

Registration
of declara-
tion as to
sending of
notices

(5) The treasurer, forthwith after he has sent the notice as required by subsection 4, shall make and register in the registry office a statutory declaration describing the land to which it relates and setting forth the names and addresses of all persons to whom he has sent the notice and the date of sending the same to each person, and a copy of the notice shall be attached to the declaration as an exhibit.

Declaration,
fee for

(6) The registrar shall be paid a fee of \$1 for registration of the statutory declaration.

Declaration
deemed an
instrument
R.S.O. 1960,
c. 348

(7) The statutory declaration shall for the purposes of registration be deemed to be an instrument which within the meaning of *The Registry Act* may be registered, and it is not necessary for its registration that the declaration be accompanied by any proof of execution other than that attested in the declaration.

Interest of
Crown not
affected

(8) Where the Crown, whether as represented by the Government of Canada or the Government of Ontario, has any interest in any land in respect of which taxes are in arrear, the interest only of the persons other than the Crown therein is vested in the municipality by the registration of a tax arrears certificate, and, where such interest is that of a lessee, licensee or locatee, the vesting is valid without requiring the consent of the Minister of Lands and Forests.

Department
to approve
registration

(9) The treasurer shall not register or cause to be registered any such certificates until authorized so to do by the Department, and any such authority may be general or special in its terms and shall not be required to be registered or referred to in any certificate that is registered.

Easements

(10) Where a tax arrears certificate is registered with respect to a dominant tenement, the easements appurtenant thereto are vested in and become the property of the municipality, and, where a tax arrears certificate is registered with respect to a servient tenement, the registration does not affect any easement to which it is subject.

(11) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of subsection 10. R.S.O. 1950, c. 96, s. 45 (5-11). ^{Restrictive covenant}

48. Where land is vested in a municipality under section 47, any expenditure necessary to keep the land in a proper state of repair or to insure the same may be made by the treasurer and the amount thereof with interest as provided in section 150 of *The Assessment Act* may be added to the amount required to redeem the land, if the treasurer has sent by registered mail at least one month before making the expenditure a notice containing particulars of the proposed expenditure and an estimate of the cost thereof to the last known address of the assessed owner of the land and to all persons appearing by the records of the registry or land titles office and the sheriff's office to have an interest therein. R.S.O. 1950, c. 96, s. 46. ^{Repairs, etc.} ^{R.S.O. 1960, c. 23}

49.—(1) The owner or assessed owner of or any person appearing by the records of the registry or land titles office or the sheriff's office to have an interest in any vacant land or improved land in respect of which a tax arrears certificate has been registered may redeem the land at any time within one year after the date of registration of the certificate by paying to the municipality the amount set forth in the certificate in respect of the land to be redeemed with interest thereon to the day of redemption, together with the amount of all expenses incurred by the municipality and the treasurer in registering the certificates and for searches and postage and \$1 for each certificate and for each notice sent under subsection 4 of section 47, and also by paying to the municipality all taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and had been liable for ordinary taxation, and, if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed, and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement, and a certificate of the treasurer as to the total amount payable in order to redeem the land is final and conclusive. R.S.O. 1950, c. 96, s. 47 (1); 1951, c. 19, s. 3; 1952, c. 19, s. 4. ^{Right of redemption}

Registration
of
redemption
certificate

(2) Where land is redeemed under this section, the treasurer shall forthwith register in the registry office a certificate to be known as a redemption certificate (Form 3), setting forth therein a description of the land redeemed, and a redemption certificate, when registered, is a valid and effectual cancellation of the tax arrears certificate registered with respect to the land and, subject to subsection 3, the land thereupon vests in and becomes the property of the persons who would be entitled thereto if the tax arrears certificate had not been registered, according to their respective rights and interests.

Lien on
redemption
by other
than owner

(3) If land is redeemed by any person entitled to redeem the land other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem the land. R.S.O. 1950, c. 96, s. 47 (2, 3).

Duty of
registrar

50.—(1) Every certificate registered under section 47, 49 or 52 shall be entered by the registrar in the registry book in its proper order and in the proper abstract index provided under *The Registry Act*.

R.S.O. 1960,
c. 348

Fees of
registrar

(2) The registrar is entitled to the following fees for registration of a certificate under section 47, 49 or 52, and for searches made for the corporation for the purposes mentioned in section 47 and no others:

1. For registering a tax arrears certificate of vacant land, \$2, and 10 cents additional for every lot in excess of the first lot embraced in such certificate.
2. For registering a tax arrears certificate of improved land, \$2.
3. For registering a redemption or vacating certificate, 50 cents, and, if the certificate embraces more than one parcel of land, for each additional parcel over one, 5 cents.
4. For each search made for the corporation for the purposes mentioned in section 47, 5 cents for each lot searched, but in no case to be more than \$5 for a search in respect of the lands described in any one certificate.
5. For furnishing to the corporation for the purposes mentioned in section 47 a list in writing of the names and, if recorded, the addresses of all persons appearing by the records of the registry office to have an interest in the land described in a tax arrears certificate, 50 cents for each lot embraced in the certificate.

(3) Upon the written request of the treasurer of a municipality for the purposes mentioned in section 47, the sheriff shall, in respect of the land described and the persons named in the request, furnish to the treasurer a certificate showing the names and addresses of all persons, if any, appearing by the records of his office to have an interest in such land, and for the certificate the sheriff is entitled to a fee of 75 cents for each lot embraced in the request.

Certificate
of sheriff

(4) No tax is payable under *The Land Transfer Tax Act* on registration of any tax arrears or redemption certificate or vacating certificate.

Land
transfer tax
not payable
R.S.O. 1960,
c. 205

(5) A tax arrears certificate of improved land shall not embrace more than one such property or any vacant land that is a separate parcel, and a tax arrears certificate of vacant land shall not embrace lots according to more than one registered plan or any improved land. R.S.O. 1950, c. 96, s. 48.

What lands
certificate
may
embrace

51. Where land to which section 47 applies is registered in a land titles office, the certificate and declarations that may be registered under any provision of this Part shall be registered in the proper land titles office, and all the provisions of this Part in relation to such certificates and declarations and their registration, and as to fees payable for registrations, searches, lists and certificates apply *mutatis mutandis* to lands entered in a land titles office, and *The Land Titles Act* shall be deemed to permit such registrations. R.S.O. 1950, c. 96, s. 49.

Where lands
in land
titles office

R.S.O. 1960,
c. 204

52.—(1) Where under this Part, Part VI of *The Ontario Municipal Board Act, 1932* or Part III of *The Department of Municipal Affairs Act, 1935* a tax arrears certificate has been registered with respect to any land and it is subsequently ascertained that it was registered by mistake or that lands have erroneously been included therein, or where the treasurer has failed to comply with subsection 4 of section 47, or where an agreement for composition and payment of the arrears of taxes for which the certificate was registered has been entered into under section 56, the Department may direct the treasurer of the corporation to register a certificate to be known as a vacating certificate (Form 4), setting forth therein a description of the land wherein the title of the corporation is to be vacated, and such vacating certificate, when registered, is as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the original

Vacating
certificates
1932, c. 27;
1935, c. 16

estate of such registered owner, but the registration of any vacating certificate does not in any way cancel or affect taxes or arrears of taxes, if any, that may be due upon the land described therein. R.S.O. 1950, c. 96, s. 50 (1); 1958, c. 22, s. 3.

Cancellation
of plans

(2) The Department may require the council of a municipality that is subject to this Part to make application to the judge of the county or district court for the purposes mentioned in section 92 of *The Registry Act*.

R.S.O. 1960,
c. 348

Application
to City of
Windsor
1932, c. 95

(3) This section applies to all lands acquired by the corporation of the city of Windsor under section 3 of *The City of Windsor Act, 1932*. R.S.O. 1950, c. 96, s. 50 (2, 3).

Conveyance
to former
owner, etc.

53.—(1) Notwithstanding the other provisions of this Act or any other Act, where land in respect of which a tax arrears certificate has been registered has become vested in the municipality and the period for redemption has expired and where the land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 4 of section 47, with the approval of the Department, is entitled at any time to a conveyance of the land upon payment of the full amount that would have been payable in respect of taxes, interest and penalties had the land not become vested in the municipality, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such vesting and of the conveyance. R.S.O. 1950, c. 96, s. 51.

Further
notice

(2) Notwithstanding subsection 1, the treasurer may, at any time after the expiration of ten years from the date of registration of the certificate, cause to be sent by registered mail, to each person to whom notice was sent under subsection 4 of section 47, a further notice that, if he does not apply for a conveyance of the land under subsection 1 and tender the payment required under subsection 1 within six months of the date the notice is sent, his right to do so will expire.

Cessation
of rights
under
subs. 1

(3) If a person notified under subsection 2 does not apply for a conveyance and tender the payment required under subsection 1 within such six months, his right to do so ceases to exist. 1952, c. 19, s. 5.

Proceeds of
sale, etc.,
to be dis-
tributed

54. The proceeds derived from the sale or other disposition of lands that become the property of the municipality by virtue of section 47 shall be distributed in such manner and

in such amounts as may be agreed upon, or, failing agreement, as the Department may direct, to the bodies that would have received the proceeds of taxes on such lands, if taxes had been collected in the usual way. R.S.O. 1950, c. 96, s. 52.

55.—(1) The Department has the same right of appeal as any person assessed has under subsection 3 of section 72 of *The Assessment Act* with respect to the assessment roll of the municipality and, in addition, has the right of appeal conferred by this section. Right of appeal of Department R.S.O. 1960, c. 23

(2) An appeal by the Department under this section may Idem be made at any time within twenty days after the return of the roll and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all of the assessments included in the roll or any area of the municipality described in the notice of appeal or generally with respect to assessments of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice of appeal.

(3) The Department has the same right of appeal from any decision of the court of revision or county judge as a person assessed has under *The Assessment Act*. Appeal from court of revision or judge

(4) Except as provided in subsection 2, in any appeal against a particular assessment by the Department the practice and procedure thereon shall be the same as in the case of an appeal by a person assessed. Procedure

(5) In any general appeal by the Department under this section the practice and procedure shall be determined by the court of revision, county judge or the Board, as the case may be, and such notice or notices of the appeal shall be given by publication or otherwise as is determined by the court, judge or Board, and, upon the hearing of any such general appeal, the court, judge or Board has jurisdiction to review any or all of the assessments included in the roll as is necessary to determine the appeal and may make any changes, alterations and amendments therein, and also to direct the making of a new assessment roll in accordance with the terms of the order of the court, judge or Board. R.S.O. 1950, c. 96, s. 53. Practice and procedure in general appeal

56.—(1) The Department may authorize a compromise of tax arrears to be entered into between the corporation and any ratepayer, and in such compromise may provide for an exten- Compromise of tax arrears

sion of the time of payment of such arrears or a reduction of the amount thereof or both and acceptance of any debentures or debenture coupons of the corporation in satisfaction of the whole or part thereof.

Lien for
taxes not
affected

(2) Where a compromise of tax arrears has been entered into under this section and an extension of the time of payment thereof agreed upon, such tax arrears are and remain a special lien upon the land in respect of which they are payable in priority over all claims, liens, privileges and encumbrances thereon, except claims of the Crown, and the liens, priorities and other rights with respect thereto provided for in *The Assessment Act* continue to apply thereto and to the collection and enforcement thereof, except that the treasurer and collector of taxes of the municipality without thereby waiving the statutory rights and powers of the municipality or of themselves shall not enforce collection of such tax arrears during the time the agreement is in force. R.S.O. 1950, c. 96, s. 54.

R.S.O. 1960,
c. 23

Effect of
agreements

57. Any agreement entered into in accordance with this Part is binding upon and enures to the benefit of the parties thereto and all persons over whom the Legislature has legislative authority. R.S.O. 1950, c. 96, s. 55.

Power of
housing
commission
to amend
agreements

58. A housing commission may, with the approval of the Department, amend the terms of any agreement for sale of property heretofore or hereafter entered into by it, and with respect to property sold under any agreement that has been cancelled or determined may enter into new agreements for sale thereof, and the terms of any such amended or new agreement may be such as the Department approves. R.S.O. 1950, c. 96, s. 56.

Exercise of
municipal
jurisdiction
subject to
this Part

59. The jurisdiction and powers of a municipality that is subject to this Part exercisable under any general or special Act shall only be exercised in accordance with and subject to this Part and any order of the Department or the Board made, or agreement entered into thereunder. R.S.O. 1950, c. 96, s. 57.

Exclusive
jurisdiction
of Board and
Department

60.—(1) The Department or the Board has exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the municipality or any other person of any of the powers conferred by this Part, and such jurisdiction is not open to question or review in any action or proceeding or by any court.

(2) The Department or the Board may at any time of its own initiative or upon application made to it review any order, direction or decision made by it and confirm, amend, vary or revoke the same. Review of orders, etc.

(3) Any order made or approval given by the Department or the Board under this Part, subject to the right of the Board or the Department to review and amend or revoke the same, is final and conclusive and not open to question in any court. Orders to be final

(4) The Board only has and may exercise exclusive jurisdiction to make any order under sections 28, 29, 36, 37, 38 and 67, and otherwise has jurisdiction only with respect to appeals to it under section 31. Board's jurisdiction

(5) Except as provided by sections 28, 29, 31, 36, 37, 38 and 67, and by subsection 4, the Department only has and may exercise exclusive jurisdiction with respect to all matters provided for in this Part. R.S.O. 1950, c. 96, s. 58. Department's jurisdiction

61. The Department or the Board may make such orders and prescribe such forms from time to time as it deems necessary to carry out the provisions of this Part or any agreement made in pursuance thereof, and may make rules and regulations in respect of applications, matters and things under this Part. R.S.O. 1950, c. 96, s. 59. Powers of Board and Department

62. Every certificate, notice or other form that is in substantial conformity with the form thereof required by this Part, or prescribed by the Department or the Board, is not open to objection on the ground that it is not in the form required by this Part or prescribed by the Department or the Board. R.S.O. 1950, c. 96, s. 60. Forms of certificates, notices, etc.

63. Where a municipality has become subject to this Part, all acts, deeds, matters and things done, made or performed by or for the Board or by or for the Department under this Part in relation to the affairs of such municipality shall for all purposes be deemed to have been made, done and performed by and for the municipality and in its name. R.S.O. 1950, c. 96, s. 61. Powers exercisable for and in name of municipality

64. The Board and the Department have access at all times to all books, records, papers and documents of the municipality and of every local board, including but without limiting the generality of the foregoing all assessment rolls, collectors' rolls, by-laws, minute books, books of account, Board and Department to have access to all books and records

vouchers, and other records, papers and documents relating to its and their financial transactions, and may inspect, examine, audit and copy the same or any part thereof. R.S.O. 1950, c. 96, s. 62.

Powers to
enforce
orders

65.—(1) Where a municipality has become subject to this Part, and its council or any local board fails, neglects or refuses to comply with any order, direction or decision of the Board or the Department, the Board or the Department may, upon such notice, if any, as it prescribes, do or order done all acts, deeds, matters and things necessary for compliance with such order or direction, and may exercise all the powers of the council or local board for such purpose and under its or their name and seal.

Liability of
members of
council and
local boards
for non-
compliance
with orders
and
directions

(2) The council of the municipality and every local board thereof, and every one of its or their members, officers, employees and servants, shall comply with the orders, directions and decisions of the Board or the Department in any matter relating to the administration of the affairs of such municipality or local board, and any such person who knowingly or wilfully fails, neglects or refuses to observe and comply with any such order, direction or decision, or who, as a member of the council or local board, votes contrary thereto is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500 for each offence, and any fine so recovered belongs to the general funds of the municipality.

Personal
liability
and disquali-
fication of
members of
council and
local boards

(3) If a municipality that is subject to this Part applies any of its funds otherwise than as ordered or authorized by the Board or the Department, the members of the council or local board who voted for such application are jointly and severally liable for the amount so applied, and the same may be recovered in a court of competent jurisdiction, and such members are also disqualified from holding any municipal office for five years. R.S.O. 1950, c. 96, s. 63.

Dismissal of
municipal
officers

66. The Department may dismiss from office any officer, employee or servant of a municipality who fails, neglects or refuses to carry out any order, direction or decision of the Board or the Department. R.S.O. 1950, c. 96, s. 64.

Injunction
against
exercise of
municipal
powers

67. The Board may by injunction proceedings instituted in its own name prevent or stop the exercise by or for a municipality of any of its powers that have not been approved by the Board or the Department, when such approval is required under this Part. R.S.O. 1950, c. 96, s. 65.

68. The Department may direct that any two or more of the offices of the municipality shall be combined and held by the same officer, and may subsequently separate any of the offices so combined. R.S.O. 1950, c. 96, s. 66.

69.—(1) The Department may direct payment of such fees, or remuneration and travelling and other expenses reasonably incurred by the Department as it may determine.

(2) The Department may appoint some person, who may be an officer of the municipality, to exercise such powers and duties as the Department may provide, and the person so appointed shall be paid such salary and allowed such travelling and other expenses as the Department may determine.

(3) The Department, in determining the salaries to be paid to any person appointed by it under subsection 2, shall give consideration to such representations with respect thereto as the council may at any time make.

(4) All salaries, fees, remuneration, travelling and other expenses payable under this section and all other expenses incurred by the Board or the Department in carrying out the provisions of this Part or in the exercise of their powers thereunder shall be paid by the municipality or local board, as the case may be, and be chargeable to such of its accounts as the Department may direct. R.S.O. 1950, c. 96, s. 67.

70. The powers contained in this Part shall be deemed to be in addition to and not in derogation of any power of the Board, Department or municipality under this or any other Act, but, where the provisions of any general or special Act or any other Part of this Act conflict with the provisions of this Part, the latter prevails. R.S.O. 1950, c. 96, s. 68.

71.—(1) Where the Department is of opinion that the affairs of a municipality no longer require to be administered under this Part, the Board may make an order directing that on, from and after a date fixed thereby this Part shall no longer apply to the municipality, and on, from and after such date the Board and the Department shall cease to exercise jurisdiction and control over the municipality under this Part.

(2) Notwithstanding the provisions of subsection 1 or of an order made thereunder, where such order has been or is made, the tax arrears procedures of this Part continue to apply to the municipality in the same manner as if such order had not been made and the tax sale procedures of *The Assessment Act* do not apply and the use or disposition of

Department
may
combine
municipal
offices

Expenses of
Department

Depart-
ment's
officer

Council may
be heard
as to
salaries

Salaries and
expenses to
be paid by
municipality

Provisions
of this Act
to prevail

Board may
end appli-
cation of
this Part

Tax arrears
procedures

The R.S.O. 1960,
c. 23

any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Department. R.S.O. 1950, c. 96, s. 69.

Power of Board under s. 36 to continue to apply

72. Where the Department has heretofore ceased or hereafter ceases to exercise jurisdiction and control over a municipality under this Part pursuant to an order made under section 71, the Board shall, notwithstanding such order, continue to have and may, subject to the approval of the Department, exercise any of the powers mentioned in section 36 in the same manner as if such order had not been made. R.S.O. 1950, c. 96, s. 70.

Certain municipalities and local boards subject to this Part 1935, c. 74; 1932, c. 27; 1935, c. 16

73. Subject to *The City of Windsor (Amalgamation) Act, 1935*, the municipalities and local boards heretofore declared subject to Part VI of *The Ontario Municipal Board Act, 1932* or Part III of *The Department of Municipal Affairs Act, 1935* shall be and remain subject to this Part and to the jurisdiction and control of the Board and the Department as provided for in this Part. R.S.O. 1950, c. 96, s. 71.

FORM 1

(Section 47 (3))

TAX ARREARS CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY by virtue of *The Department of Municipal Affairs Act*, section 47, that the lands hereinafter described, by reason of certain taxes thereon remaining unpaid for the period mentioned in such section are hereby vested in and become the property of the.....of.....(naming the municipality).

Description of Lands	Amount of Unpaid Taxes with Penalties, Interest and Costs	Whether Vacant or Improved Land

The period within which the right of redemption may be exercised under such Act with respect to the above-described land is one (1) year from the date of registration of this certificate.

Dated at.....this.....day of....., 19...

.....
Treasurer

FORM 2

(Section 47 (4))

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE that, by virtue of *The Department of Municipal Affairs Act*, section 47, a tax arrears certificate has been registered against the following lands, namely:

.....
.....

and by reason thereof the same are vested in and are the property of the corporation of the.....of.....(*naming the municipality*) subject only to your right of redemption of the same on or before the..... day of....., 19....., which is the last day for redemption.

Dated at.....this.....day of....., 19.....
.....
Treasurer

R.S.O. 1950, c. 96, Form 2.

FORM 3

(Section 49 (2))

REDEMPTION CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY that the lands hereunder described have been redeemed by.....under *The Department of Municipal Affairs Act*.

Description of Lands

.....
.....

Take notice that, where land is redeemed by any person entitled to redeem the same, other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem such land.

Dated at.....this.....day of....., 19.....
.....
Treasurer

R.S.O. 1950, c. 96, Form 3.

FORM 4

(Section 52 (1))

VACATING CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY that the title of The Corporation of the
.....of.....to the lands hereunder
described is hereby vacated by the Corporation under *The Department of
Municipal Affairs Act*.

Description of Lands

.....
.....

Dated at.....this.....day of....., 19.....

.....
Treasurer

R.S.O. 1950, c. 96, Form 4.

.....

CHAPTER 99

**The Department of Planning and
Development Act****1.** In this Act,Interpre-
tation

(a) "Department" means the Department of Planning and Development;

(b) "Minister" means the Minister of Planning and Development. R.S.O. 1950, c. 97, s. 1.

2.—(1) The department of the public service known as Department continued the Department of Planning and Development is continued.

(2) The Minister shall preside over and have charge of Minister to have charge the Department. R.S.O. 1950, c. 97, s. 2, *amended*.

3. The Minister shall collaborate with the ministers having Duties of Minister charge of the other departments of the public service of Ontario, with the ministers having charge of the departments of the public service of Canada and of other provinces, with municipal councils, with agricultural, industrial, labour, mining, trade and other associations and organizations and with public and private enterprises with a view to formulating plans to create, assist, develop and maintain productive employment and to develop the human and material resources of Ontario, and to that end shall co-ordinate the work and functions of the departments of the public service of Ontario. R.S.O. 1950, c. 97, s. 3.

4. The Minister is responsible for the administration of Responsibility of Minister such Acts and the regulations made thereunder as are assigned to him by the provisions thereof or by the Lieutenant Governor in Council. R.S.O. 1950, c. 97, s. 4.

5. The expenses of the Department in carrying out its Expenses of Department objects shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 97, s. 5.

6.—(1) The Minister may appoint one or more persons Inquiries to inquire into any matter relating to the scheme and purpose of this Act and to collect such information and make such report as he deems advisable.

Powers of
person
holding
inquiry

(2) Every person appointed to inquire into a matter under subsection 1 has the power to summon any person and to require him to give evidence on oath and to produce such documents and things as are requisite, and every person so appointed has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1950, c. 97, s. 6.

CHAPTER 100

The Department of Public Welfare Act

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Public Welfare;

(b) "Minister" means the Minister of Public Welfare.
R.S.O. 1950, c. 98, s. 1.

2.—(1) The department of the public service known as the Department of Public Welfare is continued.

Department
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 98, s. 2, *amended*.

Minister
to have
charge

3. The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. 1960, c. 25, s. 1.

Adminis-
tration of
Acts

4. The Minister may,

Powers of
Minister

(a) institute inquiry into and collect information and as is best adapted to promote public welfare;

(b) disseminate information in such manner and form as are best adapted to promote public welfare;

(c) secure the observance and execution of all Acts and regulations dealing with matters of public welfare;

(d) cause investigation to be made into all activities, agencies, organizations, associations or institutions having for their object the social welfare or care of men, women or children in Ontario and that are not under the control of any other department of the public service of Ontario;

(e) declare any institution or organization to be a charitable institution. R.S.O. 1950, c. 98, s. 4.

Annual
Report

5.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

Idem

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 98, s. 5.

Control over
charitable
institutions

6. The Lieutenant Governor in Council may,

- (a) declare any institution or organization having charitable objects or purposes, or any class or classes of such institutions or organizations, to be subject to the control of the Minister;
 - (b) make regulations governing the operation and activities of institutions and organizations that are declared to be subject to the control of the Minister under this section, including regulations governing the procuring of funds from the public and the applications thereof by such institutions and organizations. R.S.O. 1950, c. 98, s. 6.
-

CHAPTER 101

The Department of Reform Institutions Act

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Reform Institutions;

(b) "Minister" means the Minister of Reform Institutions. R.S.O. 1950, c. 99, s. 1.

2.—(1) The department of the public service known as the Department of Reform Institutions is continued Department continued(2) The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 99, s. 2, *amended*. Minister to have charge3. The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. R.S.O. 1950, c. 99, s. 3, *redrafted*. Administration of Acts4. The expenses of the Department in carrying out its objects shall be paid out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1950, c. 99, s. 4. Expenses of Department5. The Minister may direct any officer of the Department or any other person to investigate and inquire into and report to him upon any matter connected with or affecting, Powers of investigation

(a) any institution coming under his jurisdiction;

(b) the welfare of the inmates of any such institution or of persons who are on parole under *The Parole Act*; R.S.O. 1960, c. 286
or

(c) the administration of the Department. R.S.O. 1950, c. 99, s. 5.

6. Every officer having any custodial duties at any institution under the jurisdiction of the Minister is *ex officio* a constable. R.S.O. 1950, c. 99, s. 6. Custodial officer to be a constable

CHAPTER 102

The Department of Transport Act

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Transport;

(b) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council as the Minister of Transport to administer the Department. 1957, c. 26, s. 1.

2.—(1) The department of the public service known as Department continued the Department of Transport is continued.

(2) The Minister shall preside over and have charge of the Minister to have charge Department. 1957, c. 26, s. 2, *amended*.

3.—(1) A Deputy Minister of the Department may be Deputy Minister appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may appoint such Staff officers, clerks and servants as are deemed necessary from time to time for the proper conduct of the business of the Department. 1957, c. 26, s. 3.

4. Notwithstanding any other Act, the Lieutenant Governor Assignment of Acts to Minister in Council may assign the administration of any Act to the Minister and the Minister is responsible for the administration of an Act so assigned and may exercise the powers and shall perform the duties of the minister named in an Act so assigned. 1957, c. 26, s. 4.

5. The expenses of the Department shall be paid out of Expenses the moneys appropriated therefor by the Legislature. 1957, c. 26, s. 5 (1), *amended*.

6.—(1) The Government of Ontario, represented by the Provincial agreements re licensing and fees of commercial motor vehicles, etc. Minister of Transport, may make reciprocal arrangements and enter into agreements with the government or governments of any province or provinces of Canada,

(a) providing for the licensing of public commercial vehicles and public vehicles, for the registration of

commercial motor vehicles and trailers, and for exemptions from such licensing and registration;

(b) prescribing the fees to be paid therefor and providing for the payment and apportionment of such fees; and

(c) providing for such other related matters as are deemed necessary.

Acts
subject to
agreement
R.S.O. 1960,
cc. 172, 319,
337

(2) The provisions of *The Highway Traffic Act*, *The Public Commercial Vehicles Act* and *The Public Vehicles Act* and regulations made thereunder, with respect to licensing and registration of vehicles, are subject to any agreement entered into under this section.

Public
commercial
vehicles

(3) A public commercial vehicle licence issued for a commercial motor vehicle or trailer by a province with which an agreement has been entered into under this section with respect to such a licence shall be deemed for the purposes of *The Public Commercial Vehicles Act* to be a public commercial vehicle licence under that Act.

Public
vehicles

(4) A public vehicle licence issued for a public vehicle by a province with which an agreement has been entered into under this section with respect to such a licence shall be deemed for the purposes of *The Public Vehicles Act* to be a public vehicle licence under that Act.

Commercial
motor
vehicles

(5) A permit for the registration of a commercial motor vehicle or trailer issued by a province with which an agreement has been entered into under this section with respect to such a permit shall be deemed for the purposes of *The Highway Traffic Act* to be a permit for the registration of such vehicle under that Act.

Suspension
of licences
or permits

(6) Where a licence or permit issued by a province with which an agreement has been entered into under this section is deemed for the purposes of any Act of the Legislature to be a licence or permit under such Act, the provisions of such Act with respect to suspension or cancellation of such a licence or permit apply in so far as the licence or permit is effective in Ontario. 1959, c. 27, s. 1.

CHAPTER 103

The Department of Travel and Publicity Act**1.** In this Act,Interpre-
tation

- (a) "Department" means the Department of Travel and Publicity;
- (b) "Minister" means the Minister of Travel and Publicity;
- (c) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 100, s. 1.

2.—(1) The department of the public service known as the Department of Travel and Publicity is continued.

Department
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 100, s. 2, *amended*.

Minister
to have
charge

3. The objects of the Department are to develop the tourist industry in Ontario by encouraging and promoting improvement in the standards of accommodation, facilities and services offered to tourists and to undertake the publicizing of the tourist industry and of the resources, attractions and advantages of Ontario. R.S.O. 1950, c. 100, s. 3.

Objects

4. The Minister is responsible for the administration of such Acts and the regulations made thereunder as are assigned to him by the provisions thereof or by the Lieutenant Governor in Council. R.S.O. 1950, c. 100, s. 4.

Responsi-
bility of
Minister

5.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

Annual
report

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 100, s. 5.

Idem

6. The expenses of the Department in carrying out its objects shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 100, s. 6.

Expenses

Investiga-
tion

7. The Minister may direct any officer of the Department or any other person to investigate, inquire into and report to him upon any matter connected with or affecting the tourist industry, including accommodation, facilities or services offered to tourists, or the advertising or publicizing thereof, or of the resources, attractions or advantages of Ontario, and for the purposes of the investigation and inquiry such officer or other person has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 100, s. 7.

R.S.O. 1960,
c. 323Tourist
information

8. No person, except an authorized agent or employee of a governmental or municipal authority, board of trade, chamber of commerce, *bona fide* tourist development association, *bona fide* travel agency or company transporting passengers by rail, boat, air or bus, shall, without the approval in writing of the Minister, display any sign or other device on or near any premises indicating that information for tourists or other similar service is available from him or on the premises. R.S.O. 1950, c. 100, s. 8.

Distribution
of
advertising
matter

9. No person shall distribute in or send from Ontario any advertising matter connected with or affecting the tourist industry, including accommodation, facilities or service offered to tourists, or advertising or publicizing the resources, attractions or advantages of Ontario, that does not comply with the regulations. R.S.O. 1950, c. 100, s. 9.

Display of
notices by
tourist
establish-
ments

10. Every person who offers accommodation, facilities or services of any type prescribed by the regulations shall display a notice bearing the words "closed", "open", "vacancy" or "no vacancy", as the case may be, in accordance with the regulations. R.S.O. 1950, c. 100, s. 10.

Regulations

11.—(1) The Lieutenant Governor in Council may make regulations with respect to the tourist industry,

(a) regulating the form and contents of all or any class of advertising matter mentioned in section 9;

R.S.O. 1960,
c. 171

(b) subject to *The Highway Improvement Act*, regulating the size, style and location of the notices mentioned in section 10, and prescribing the type of accommodation, facilities or services to which such regulations shall apply. R.S.O. 1950, c. 100, s. 11 (1).

Idem

(2) The Minister may make regulations providing for the apportionment and distribution of all moneys appropriated by the Legislature for the maintenance of historical institutions

and for the conditions governing the payment thereof. 1959,
c. 28, s. 1.

12. Every person who contravenes any of the provisions of ^{Offence} this Act or any regulation made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 100, s. 12.

CHAPTER 104

The Dependants' Relief Act**1. In this Act,**Interpre-
tation

- (a) "applicant" means a dependant making application for an allowance under this Act, or, in the case of a dependant who is a patient in an institution under *The Mental Hospitals Act* or who has been declared a mentally incompetent person, the Public Trustee or committee of such person, as the case may be, or, in the case of an infant, the Official Guardian, applying for an allowance under this Act on behalf of such patient in an institution under *The Mental Hospitals Act*, mentally incompetent person or infant, as the case may be; R.S.O. 1960,
c. 236
- (b) "dependant" means the wife or husband of a testator, the child of a testator under the age of sixteen years or the child of a testator over that age who through illness or infirmity is unable to earn a livelihood;
- (c) "executor" includes administrator with the will annexed;
- (d) "letters probate" includes letters of administration with the will annexed;
- (e) "testator" means a person who by deed or will or by any other instrument or act so disposes of real or personal property, or an interest therein, that the property or interest will pass at his death to some other person;
- (f) "will" means a deed, will, codicil, instrument or other act by which a testator so disposes of real or personal property that the property will pass at his death to some other person. R.S.O. 1950, c. 101, s. 1.

2.—(1) Where it is made to appear to the judge of the surrogate court of the county or district in which a testator was domiciled at the time of death that the testator has by will so disposed of real or personal property that adequate provision has not been made for the future maintenance of his dependants or any of them, the judge may make an order Order for
allowance
for main-
tenance

charging the whole or any portion of the estate, in such proportion and in such manner as to him seems proper, with payment of an allowance sufficient to provide such maintenance.

Form of
allowance

(2) The allowance may be by way of an amount payable annually or otherwise, or of a lump sum to be paid, or of certain property to be conveyed or assigned, either absolutely or for life or for a term of years, to the dependant by whom or on whose behalf the application is made, or for his use and benefit as the judge sees fit, and, in the event of a conveyance of property being ordered, the judge may give all necessary and proper directions for the execution of the conveyance or conveyances, either by the executor or by such other person as the judge directs, or may grant a vesting order. R.S.O. 1950, c. 101, s. 2.

Who may
apply

R.S.O. 1960,
c. 236

3. An application for an allowance may be made by a dependant, or, in the case of a dependant who is a patient in an institution under *The Mental Hospitals Act* or has been declared a mentally incompetent person, by the Public Trustee or committee, as the case may be, or, in the case of a dependant under the age of twenty-one years, by the Official Guardian or by a guardian appointed by the court. R.S.O. 1950, c. 101, s. 3.

Procedure

4.—(1) An application for an allowance shall be made to the judge in chambers upon originating notice according to the practice of the court.

When
application
to be made

(2) Where letters probate have been or are applied for by the wife or husband of the testator or a guardian on behalf of minor dependants, an application for an allowance for such wife or husband or for such minor dependants shall be made at the time of applying for letters probate and in every other case the application shall be made within three months after the death of the testator, but the judge, if he deems it just, may allow an application to be made at any time as to any portion of the estate remaining undistributed at the date of the application.

Distribution
of estate
postponed

(3) After service of notice of the application, the executors or trustees under the will shall not proceed with the distribution of the estate except so far as is necessary for the payment of debts and funeral and testamentary expenses and succession duty until the application is disposed of.

Removal
into
Supreme
Court

(4) At any time before the hearing of the application, a judge of the Supreme Court upon motion on behalf of the trustees or executors, or the applicant, or any other person

interested, and upon being satisfied that the total value of the estate of the testator exceeds \$10,000, may by order direct that the application be heard by a judge of the Supreme Court and thereupon the matter shall be transferred into the Supreme Court and the application shall be heard by a judge of the Supreme Court who has the like powers and shall proceed in the like manner as in the case of a hearing and determination by the judge of the surrogate court.

(5) Where a person by whom, or on whose behalf, an application for an allowance may be made under this Act is a patient in an institution under *The Mental Hospitals Act* at the time of the death of the testator or at any time before the application under this Act is heard and disposed of, notice of the application for letters probate shall be served upon the Public Trustee on behalf of such person, and the time within which the Public Trustee may make an application for an allowance under this Act runs from the date of the service of such notice.

Persons in institutions under R.S.O. 1960, c. 236

(6) Where a person interested in the estate in respect of which an application is made under this Act is a patient in an institution under *The Mental Hospitals Act*, notice of the application for an allowance shall in every case be served upon the Public Trustee who has the right to appear and be heard upon the application. R.S.O. 1950, c. 101, s. 4.

Notice to Public Trustee

5. The judge shall not make any order until he is satisfied upon oath that all persons who are or may be interested in or affected by the order have been served with notice of the application as provided by the rules of court, and every such person is entitled to be present and to be heard in person or by counsel at the hearing. R.S.O. 1950, c. 101, s. 5.

Notice to parties before order

6. Except where inconsistent with this Act, the rules of evidence observed in and the practice and procedure of the surrogate court apply to proceedings under this Act. 1952, c. 20, s. 1.

Practice

7. The judge upon the hearing of the application shall inquire into and consider,

Matters to be considered by judge

- (a) the circumstances of the testator at the time of death;
- (b) the circumstances of the person on whose behalf the application is made;
- (c) the claims that any other person may have as a dependant of the testator;

- (d) any provision that the testator may have made *inter vivos* for dependants or any dependant;
- (e) any services rendered by dependants to the testator;
- (f) any sum of money or any property provided by a dependant for the testator for the purpose of providing a home or assisting in a business or occupation or for maintenance or medical or hospital expenses; and
- (g) generally any matter that the judge deems should be fairly taken into account in deciding upon the application. R.S.O. 1950, c. 101, s. 7.

Payment
for services
rendered to
testator

8. Where the dependant has given person assistance or a gift or loan of money or real or personal property towards the advancement of the testator in a business or occupation, the judge may in and by his order fix a value in money upon such assistance, or may fix the amount or value in money of any gift or loan so made, and may direct that the applicant rank as a creditor upon the estate therefor in the same manner and to the same extent as a judgment creditor upon a simple contract debt, but, except as to the amount so fixed as the value of such assistance or as the amount or value in money of such gift or loan, an allowance payable under this Act shall be postponed to the claims of creditors of the estate. R.S.O. 1950, c. 101, s. 8.

When widow
disqualified

9. No order shall be made under this Act in favour of a wife who was living apart from her husband at the time of his death under circumstances that would disentitle her to alimony. R.S.O. 1950, c. 101, s. 9.

Limit of
allowance

10. Subject to section 8, the amount or value of any allowance ordered to be paid, together with the value of any benefits given under the will of the testator, shall not exceed the amount to which the person in whose favour the order is made would have been entitled if the testator had died intestate. R.S.O. 1950, c. 101, s. 10.

Costs

11. The judge may direct that the costs of the application be paid out of the estate or otherwise as he deems just, and may fix the amount of the costs payable by any party, exclusive of necessary disbursements, at a lump sum having regard to the value of the estate and the amount of any allowance applied for or directed by his order. R.S.O. 1950, c. 101, s. 11.

12.—(1) A party or person taking part in the proceedings Appeal may appeal to the Court of Appeal from an order or decision made under this Act.

(2) Where the party or person having a right of appeal does not appeal from the order or decision, any person beneficially interested in the estate, by leave of a judge of the Court of Appeal, may appeal therefrom. ^{Persons interested may appeal}

(3) Any person beneficially interested in the estate, by leave of a judge of the Court of Appeal, may appear and be heard upon an appeal. ^{Persons interested may be heard}

(4) Every appeal under this Act shall be made by notice of motion served upon all parties interested within thirty days after the date of the order or decision appealed from, and, when the circumstances of any case in the opinion of a judge of the Court of Appeal so warrant, he may permit service to be effected by registered mail. ^{Manner and time of appeal}

(5) The time limited for appeal may be extended by a judge of the Court of Appeal, either before or after the expiry of the time limit. ^{Extension of time}

(6) The rules of court apply to such appeals. 1952, c. 20, s. 2. ^{Rules of court}

13. *The Judges' Orders Enforcement Act* applies to orders made under this Act. R.S.O. 1950, c. 101, s. 13. ^{Application of R.S.O. 1960, c. 196}

CHAPTER 105

**The Deserted Wives' and Children's
Maintenance Act**

1.—(1) Where a wife has been deserted by her husband, an ^{Order for maintenance of wife} information may be laid before a justice of the peace, and the justice of the peace may issue a summons (Form 1) against the husband, and if upon the hearing before a magistrate or a judge of a juvenile court it appears that the husband had deserted his wife without having made adequate provision for her maintenance and the maintenance of his children residing with her and that he is able to maintain them in whole or in part and neglects or refuses so to do, the magistrate or judge may order (Form 2) him to pay such sum at such intervals as is deemed proper having regard to all the circumstances. R.S.O. 1950, c. 102, s. 1 (1); 1954, c. 22, s. 1 (1).

(2) A married woman shall be deemed to have been deserted ^{Desertion of wife} within the meaning of this section when she is living apart from her husband because of his acts of cruelty, or of his refusal or neglect, without sufficient cause, to supply her with food and other necessities when able so to do, or of the husband having been guilty of adultery that has not been condoned and that is duly proved, notwithstanding the existence of a separation agreement where there has been default under it and whether or not it contains express provisions excluding the operation of this Act.

(3) Without restricting in any way the generality of sub- ^{What constitutes cruelty} section 2, conduct causing reasonable apprehension of bodily injury, or of injury to health, without proof of actual personal violence, that renders the home an unfit place, either for a wife or a child, may be held to constitute acts of cruelty within the meaning of subsection 2.

(4) No order shall be made in favour of a wife who is ^{Cases of adultery} proved to have committed adultery, unless the adultery has been condoned, and any order may be rescinded upon proof that the wife, after the making thereof, has been guilty of adultery, if it has not been condoned. R.S.O. 1950, c. 102, s. 1 (2-4).

Effect of
finding of
adultery

(5) A finding by the magistrate or judge that adultery has been proved is not evidence of the adultery in any other proceedings. R.S.O. 1950, c. 102, s. 1 (5); 1954, c. 22, s. 1 (2).

Order for
maintenance
of child

2.—(1) A father who has deserted his child may be summoned before a magistrate or a judge of a juvenile court having jurisdiction where the father or the child then resides, who, if satisfied that the father has wilfully refused or neglected to maintain the child and has deserted the child, may order the father to pay to the person named in the order for the support of the child such sum at such intervals as the magistrate or judge deems proper, having regard to the means of the father and to any means the child may have for his own support. R.S.O. 1950, c. 102, s. 2 (1); 1957, c. 27, s. 1 (1).

Maximum
sum

(2) The sum that a father may be ordered to pay under subsection 1 for the support of each child deserted by him shall not exceed a sum calculated at the rate of \$20 a week with or without costs. 1957, c. 27, s. 1 (2).

When child
deemed to
have been
deserted

(3) A child shall be deemed to have been deserted by his father within the meaning of this section when the child is under the age of sixteen years and the father has, without adequate cause, refused or neglected to supply the child with food or other necessities when able so to do.

Custody of
child

(4) The magistrate or judge may in an order made under this section make provision as to the custody of the child and the right of access thereto of any person, or of either parent, having regard to the welfare of the child and to the conduct of the parent or person and to the wishes of the mother as well as of the father, and may at any time alter, vary or discharge any provision so made.

Contempt
of custody
orders

(5) Every person who wilfully resists any provision as to custody and right of access in an order made under this section is guilty of contempt and on summary conviction before the magistrate or judge or any magistrate or judge having jurisdiction in the court in which the order was made is liable to a fine of not more than \$100 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1950, c. 102, s. 2 (2-4).

Warrant
for
arrest

3. Where the justice of the peace before whom an information is laid under section 1 or 2 is satisfied that the husband or father, as the case may be, is about to quit the territorial jurisdiction of the justice of the peace, the justice of the peace may, with the written approval of a magistrate or judge of a

juvenile and family court, issue a warrant (Form 3) for the arrest of the husband or father. 1957, c. 27, s. 2.

4.—(1) In this section, “officer” means a probation officer^{Interpretation} appointed under *The Probation Act* or *The Juvenile and Family Courts Act* or a local director of a children’s aid society, ^{R.S.O. 1960,} and includes any official of the Department of Public Welfare ^{cc. 308, 201} or of any municipality who is designated by the Minister of Public Welfare as an officer for the purposes of this section.

(2) Where an order for the payment of maintenance or support has been made under this Act and the person for^{Order to report to officer} whose benefit the order was made is a public charge or where the magistrate or judge who made the order is of opinion that if default should occur in complying with the order the person for whose benefit the order was made may become a public charge, the magistrate or judge may order the person required to make the payments to report to such officer as he designates at such times and during such period and at such place as he considers necessary to ensure that the order for payment will be complied with.

(3) The magistrate or judge may at any time by further^{Change of officer} order designate another officer for the purposes of subsection 2.

(4) Every person who without reasonable excuse fails to^{Offence} report to an officer when ordered so to do under this section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months.

(5) An order made under this Act that is certified by the^{Certificate of order} magistrate or judge who made it or a certificate of a magistrate or judge as to the making of such an order by him is receivable in evidence in a prosecution under subsection 4 as proof of the making of the order without proof of the office or signature of the magistrate or judge so certifying. 1957, c. 27, s. 3.

5. An information under this Act may be laid by a wife or^{Who may lay information} child or by a person having the care and custody of a child, or, with the consent of the Crown attorney, by any other person. R.S.O. 1950, c. 102, s. 4.

6. The magistrate or judge may in any order under this^{Time limit} Act set a time limit, not exceeding thirty days, within which each sum of money ordered to be paid and the costs shall be paid. R.S.O. 1950, c. 102, s. 5.

Rehearing
of applica-
tion

7.—(1) Where a judge is satisfied that,

- (a) the circumstances of any of the parties have changed since the making of an order under this Act; or
- (b) evidence has become available that was not available upon the previous hearing,

he may direct a rehearing of the application.

Order may
be con-
firmed, etc.

(2) Upon the rehearing of the application any order previously made may be confirmed, rescinded or varied.

Interpre-
tation

(3) In this section, “judge” means,

- (a) the magistrate or judge who made the order; or
- (b) if such magistrate or judge is dead, ill or absent, any other magistrate or any other judge of a juvenile and family court whose jurisdiction in the same locality is such that an information similar to the original information could be laid before him; or
- (c) any magistrate or any judge of the juvenile and family court who has jurisdiction in the locality in which the person in whose favour the order is made resides. R.S.O. 1950, c. 102, s. 6.

Primary
jurisdiction
in juvenile
and family
court

8. Where there is juvenile and family court with jurisdiction, proceedings under this Act shall be heard in that court. 1954, c. 22, s. 2.

Applications
may be
heard in
private

9. An application under this Act may be heard by the magistrate or judge in private. R.S.O. 1950, c. 102, s. 7.

Payment of
expenses

10. Where it is necessary to incur expense in serving a warrant or summons or in carrying out any of the provisions of this Act, and the informant is unable to pay such expenses, they may be paid out of the moneys that are appropriated by the Legislature for that purpose. R.S.O. 1950, c. 102, s. 8.

Provisional
order

11.—(1) Where an information has been laid against a person under this Act and that person fails to appear to answer to the summons, a magistrate or judge of the juvenile court having jurisdiction to hear the complaint in the locality in which the information was laid may, instead of issuing a warrant to compel the person's attendance or taking any other action that might be taken under this Act or otherwise, in his

absence and without further notice to him, hear the evidence and, if satisfied of the justice of the complaint and that the person is resident in another locality in Ontario, make any order that he might have made if the person had appeared before him to answer to the complaint, but in such case the order is provisional only and has no effect unless and until confirmed by a magistrate or judge of the juvenile court having jurisdiction in the locality in which the person resides.

(2) If the testimony of a witness at the hearing is not taken in shorthand, it shall be put into the form of a deposition which shall be read over and signed by the witness and by the magistrate or judge presiding at the hearing. ^{Depositions and transcripts}

(3) Where an order is made under subsection 1, the magistrate or judge, as the case may be, shall send to a magistrate or judge of the juvenile court having jurisdiction in the locality in which the person against whom the order is made resides, ^{Transmission of documents}

- (a) a copy of the information certified by the magistrate or judge to be a true copy;
- (b) a copy of the order certified by the magistrate or judge to be a true copy;
- (c) a copy of the transcript of the evidence certified by the court stenographer to be a true copy, or, where the evidence was not taken in shorthand, the depositions referred to in subsection 2;
- (d) a statement, signed by the magistrate or judge containing such information as is available for facilitating the identification of the person against whom the order is made and ascertaining his whereabouts.

(4) The magistrate or judge to whom the documents mentioned in subsection 3 are sent may issue a summons calling upon the person named in the order to appear and show cause why the order should not be confirmed. ^{Issue of summons}

(5) At the hearing, it shall be open to the person named in the order to raise any defence that he might have raised in the original proceedings, but, if on appearing he fails to satisfy the magistrate or judge that the order ought not to be confirmed, the magistrate or judge may confirm the order without modification or with such modification as he considers proper having regard to all the evidence. ^{Confirmation of order}

Adjourn-
ment for
further
evidence

(6) Where the person mentioned in the order appears before the magistrate or judge and satisfies him that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the magistrate or judge who made the order, the magistrate or judge may so remit the case and adjourn the proceedings for that purpose.

Where
order not
confirmed

(7) Where the person named in the order appears before the magistrate or judge and the magistrate or judge, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, he may remit the case to the magistrate or judge who made the order together with a statement signed by him of his reasons for so doing, and in that event the magistrate or judge who made the order may proceed with the case as though the order had not been made.

Variation
and rescis-
sion of
order,
remission
of case,
after con-
firmation

(8) Where an order has been confirmed under this section, it may be varied or rescinded in like manner as if it were made originally by the confirming magistrate or judge, and, where on an application for variation or rescission the magistrate or judge is satisfied that it is necessary to remit the case to the magistrate or judge who made the order for the purpose of taking further evidence, he may so remit the case and adjourn the proceedings for that purpose.

Right of
appeal

(9) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have if the order had been made under section 1 or 2.

Effect of
confirma-
tion

(10) An order that has been confirmed under this section shall be deemed to be an order of the magistrate or judge who confirmed it and the officers of his court shall take all proper steps to enforce it.

Proof of
documents;
admissibility
in evidence

(11) Any document under this section purporting to be signed by a magistrate or judge or by a court stenographer shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or official character of the person appearing to have signed it and any such document is admissible in evidence. 1953, c. 28, s. 1.

Enforcement
of order

12.—(1) When default is made in the payment of a sum of money ordered to be paid under this Act, a justice of the peace,

(a) may from time to time summon the person in default to explain the default; and

- (b) if the service of the summons is proved and the person summoned does not appear and sufficient reason for his absence is not given, or if it appears that the summons could not be served, may issue a warrant for his arrest,

and, if upon the hearing before a magistrate or judge of the juvenile court the person in default fails to satisfy him that the default is due to inability to pay, he may order and adjudge the person to be imprisoned for a term of not more than three months unless the sum payable under the first-mentioned order, or such lesser sum as the magistrate or judge designates, is sooner paid. 1959, c. 29, s. 1.

(2) When default is made in the payment of a sum of money ordered to be paid under this Act, the magistrate or judge of the juvenile court who made the order may at any time send a duplicate original of the order, together with a statement showing such information as he possesses of the circumstances of the case and for facilitating the identification of the person against whom the order was made and the location of his place of residence, to any judge of a juvenile court having jurisdiction in the locality in which such person resides, or to any magistrate in or near such locality, and upon receipt thereof the magistrate or judge of the juvenile court, as the case may be, shall summon the person in default to explain the default and may, if he is satisfied as to the justice of the order, exercise any of the powers mentioned in subsection 1, and, when he has dealt with the matter, he shall send a report thereon to the magistrate or judge of the juvenile court who made the order.

(3) Notwithstanding subsection 1 of section 3 of *The Summary Convictions Act*, section 625 of the *Criminal Code* (Canada) does not apply to an order for imprisonment made under this section. 1951, c. 20, s. 1, *part*.

13. Except as otherwise provided, proceedings under this Act shall be in accordance with *The Summary Convictions Act*. 1951, c. 20, s. 1, *part*.

14. An appeal from an order made under this Act may be heard at such time as the judge of the court to which the appeal is taken may appoint and may in the discretion of the judge be heard in chambers. 1951, c. 20, s. 2.

15.—(1) No appeal or other proceeding by way of *certiorari*, motion to quash, prohibition, mandamus or otherwise suspends the operation of any order for the payment of money made

Transmis-
sion of order
to facilitate
enforcement

Application
of 1953-54,
c. 51 (Can.),
s. 625

Application
of R.S.O. 1960,
c. 387

Appeals

Payment
of money
not affected
pending
appeal

under this Act until the appeal or other proceeding is disposed of, unless an interim order suspending in whole or in part the operation of such order for payment is made upon application to the court in which the appeal or other proceeding is pending.

If default
in payment
occurs

(2) If a person ordered to pay money under this Act is in default, any appeal or other proceeding taken with respect to such order may be dismissed. 1955, c. 16, s. 1.

Enforcement
of order for
payment of
money

16. Any order for payment of money may also be filed with the clerk of any division court and enforced by garnishment proceedings, by execution and by judgment summons as in the case of a judgment in the division court. R.S.O. 1950, c. 102, s. 10; 1958, c. 23, s. 1.

FORM 1

The Deserted Wives' and Children's Maintenance Act

(Section 1 (1))

SUMMONS

County (or District)

of

To A. B., of

Whereas application has this day been made by your wife (or child), C. B., to the undersigned Justice of the Peace for, for a summons under *The Deserted Wives' and Children's Maintenance Act*, for that you have wilfully refused or neglected to maintain your wife (or your wife and family, *as the case may be*) or your child, and have deserted your wife or child. These are, therefore, to command you to appear before a magistrate or judge of the juvenile and family court (*as the case may be*) at on the day after the service hereof, at the hour of in the noon, to show cause why an order should not be made against you, to pay to your wife for her support (or for the support of her and your family, *as the case may be*, or to your child for his support), such sum not exceeding the rate of \$20 weekly (*where application is for maintenance of wife, omit the words and figures "not exceeding the rate of \$20 weekly"*), as is considered to be in accordance with your means and with the means of your wife (or child).

Given under my hand and seal this day of, 19....

..... (L.S.)
Justice of the Peace.

R.S.O. 1950, c. 102, Sched., *part*.

FORM 2

The Deserted Wives' and Children's Maintenance Act

(Section 1 (1))

ORDER

County (or District)
of

Upon reading the summons dated the.....day of,.....
19...., issued by..... Justice of the Peace
for....., upon the application of *C. B.*, wife or child of *A. B.*,
under *The Deserted Wives' and Children's Maintenance Act*, and upon
hearing all the parties (*or as the case may be*) and the evidence adduced,
and it appearing that the said *C. B.* is entitled to the benefit of the said Act:

I do hereby order that the said *A. B.* do pay hereafter to his wife, or her
agent (*or his child or his child's agent*), authorized in writing, at.....,
the sum of \$..... for her support (*or for the support of her*
and the family of the said A. B. or for support of the child), the first pay-
ment to be made on the.....day of....., 19....,
together with the costs of these proceedings, which amount to \$.....,
which shall be paid on or before the.....day of....., 19....

Given under my hand and seal this.....day of....., 19....
..... (L.S.)
Magistrate (*or Judge*)

R.S.O. 1950, c. 102, Sched., *part*.

FORM 3

The Deserted Wives' and Children's Maintenance Act

(Section 3)

WARRANT TO ARREST

Province of Ontario }
of }
}

To the peace officers in the said.....

Whereas an information has been laid against.....
of.....under *The Deserted Wives' and Children's*
Maintenance Act; and whereas I am satisfied that the said.....
.....is about to quit my territorial jurisdiction;

This is therefore to command you, in Her Majesty's name, forthwith
to arrest the said.....and bring him before
.....to be dealt with according to law.

Dated at.....this.....day of....., 19....
.....
Justice of the Peace

The issue of the above Warrant to Arrest is approved by me.

Dated at.....this.....day of....., 19....
.....
Magistrate (*or Judge*)

1957, c. 27, s. 4.

CHAPTER 106

The Devolution of Estates Act

1. In this Act,

Interpre-
tation

- (a) “court” means the Supreme Court;
- (b) “judge” means a judge of the Supreme Court;
- (c) “mental incompetency” means the condition of mind of a mentally incompetent person;
- (d) “mentally incompetent person” means a person,
 - (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
 - (ii) who is suffering from such disorder of the mind,
 that he requires care, supervision and control for his protection and the protection of his property;
- (e) “personal representative” means an executor, an administrator, or an administrator with the will annexed. R.S.O. 1950, c. 103, s. 1, *amended*.

2.—(1) All real and personal property that is vested in a person without a right in any other person to take by survivorship, on his death, whether testate or intestate and notwithstanding any testamentary disposition, devolves to and becomes vested in his personal representative from time to time as trustee for the persons by law beneficially entitled thereto, and, subject to the payment of his debts and so far as such property is not disposed of by deed, will, contract or other effectual disposition, it shall be administered, dealt with and distributed as if it were personal property not so disposed of.

(2) This section applies to property over which a person executes by will a general power of appointment as if it were property vested in him.

Idem,
where under
appoint-
ment

Exceptions

(3) This section does not apply to estates tail or to the personal property, except chattels real, of a person who, at the time of his death, is domiciled out of Ontario. R.S.O. 1950, c. 103, s. 2.

Application of enactments as to probate, etc.

3. The enactments and rules of law relating to the effect of probate or letters of administration as respects personal property and as respects the dealing with personal property before probate or administration and as respects the payment of costs of administration and other matters in relation to the administration of personal estate and the powers, rights, duties and liabilities of personal representatives in respect of personal estate apply to real property vesting in them, so far as the same are applicable as if that real property were personal property, save that it is not lawful for some or one only of several joint personal representatives without the authority of a judge to sell or transfer real property. R.S.O. 1950, c. 103, s. 3, *amended*.

Real and personal property assimilated in matters of administration

4. Subject to the other provisions of this Act, in the administration of the assets of a deceased person, his real property shall be administered in the same manner, subject to the same liability for debts, costs and expenses and with the same incidents as if it were personal property, but nothing in this section alters or affects as respects real or personal property of which the deceased has made a testamentary disposition the order in which real and personal assets are now applicable to the payment of funeral and testamentary expenses, the costs and expenses of administration, debts or legacies, or the liability of real property to be charged with the payment of legacies. R.S.O. 1950, c. 103, s. 4.

Payment of debts out of residuary estate
R.S.O. 1960, c. 433

5. Subject to section 37 of *The Wills Act*, the real and personal property of a deceased person comprised in a residuary devise or bequest, except so far as a contrary intention appears from his will or any codicil thereto, is applicable rateably, according to their respective values, to the payment of his debts, funeral and testamentary expenses and the cost and expenses of administration. R.S.O. 1950, c. 103, s. 5.

How far personal representatives to be deemed "heirs"

6. When any part of the real property of a deceased person vests in his personal representative under this Act, such personal representative, in the interpretation of any Act of the Legislature or in the construction of any instrument to which the deceased was a party or under which he is interested, shall, while the estate remains in him, be deemed in law his heir, as respects such part, unless a contrary intention appears, but nothing in this section affects the beneficial right to any

property or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.S.O. 1950, c. 103, s. 6.

7. Where an estate or interest of inheritance in real property is vested on a trust or by way of mortgage in a person solely, it, on his death, notwithstanding any testamentary disposition, devolves to and becomes vested in his executor or administrator in like manner as if it were personal estate vesting in him, and accordingly all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with it belong to the deceased's executor or administrator with all the like incidents but subject to all the like rights, equities and obligations as if it were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. R.S.O. 1950, c. 103, s. 7.

Trust estates
and interests
of mort-
gagees

8.—(1) Nothing in this Act takes away a widow's right to dower, but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this Act in her husband's undisposed-of real property in lieu of all claim to dower in respect of the real property of which her husband was at any time seised or to which at the time of his death he was beneficially entitled, and, unless she so elects, she is not entitled to share in the undisposed-of real property.

Saving as to
dower and
right of
election

(2) The personal representative of the deceased may, by notice in writing, require the widow to make her election, and, if she fails to execute and deliver a deed or instrument of election to him within six months after the service of the notice, she shall be deemed to have elected to take her dower.

Notice
to elect

(3) Where the widow is an infant or a mentally incompetent person, the right of election may be exercised on her behalf by the Official Guardian with the approval of a judge or by some person authorized by a judge to exercise it, and the Official Guardian or the person so authorized may, for and in the name of the widow, give all notices and do all acts necessary or incidental to the exercise of such right.

Where
widow under
disability

(4) Where the widow is a patient in an institution within the meaning of *The Mental Hospitals Act* and the Public Trustee is committee of her estate, he is entitled to exercise on her behalf the power of election conferred by this section. R.S.O. 1950, c. 103, s. 8.

Widow
patient in
mental
hospital
R.S.O. 1960,
c. 236

Who to be
defendants
in action for
foreclosure
where no
personal
representa-
tive of
mortgagor

9.—(1) Where there is no legal personal representative of a deceased mortgagor of freehold property, it is sufficient for the purposes of an action for the foreclosure of the equity of redemption in, or for the sale of such property that the person beneficially entitled under the last will and testament, if any, of the deceased mortgagor, or under the provisions of this Act, to such property or the proceeds thereof be made defendant to such action, and it is not necessary that a legal personal representative of the deceased mortgagor be appointed or be made a defendant thereto unless it is otherwise ordered by the court in which the action is brought, but, if during the pendency of such action, the equity of redemption devolves upon and becomes vested in a legal personal representative of the mortgagor, he shall be made a party to the action. R.S.O. 1950, c. 103, s. 9 (1), *amended*.

Interpre-
tation

(2) In subsection 1, "mortgagor" includes the assignee of a mortgagor and any person entitled to or interested in the equity of redemption. R.S.O. 1950, c. 103, s. 9 (2).

Application
for order
allowing sale
free of
curtesy or
dower

10.—(1) Where the personal representative desires to sell any real property devolving upon him free from curtesy or dower, he may apply to a judge, who may, in a summary way, and upon notice to be served personally unless the judge otherwise directs, order that it be sold free from the right of the tenant by the curtesy or dowress, and in making such order regard shall be had to the interests of all parties.

Effect

(2) If a sale free from such curtesy or dower is ordered, all the right and interest of the tenant by the curtesy or dowress pass thereby, and no conveyance or release thereof to the purchaser shall be required, and the purchaser, his heirs and assigns, hold the real property freed and discharged from the estate or interest of the tenant by the curtesy or dowress.

Payment in
satisfaction
of dower or
curtesy

(3) The judge may direct the payment of such sum in gross out of the purchase money to the person entitled to curtesy or dower as he deems, upon the principles applicable to life annuities, a reasonable satisfaction for such estate or interest, or he may direct the payment to the person entitled of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as he deems just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as he deems necessary. R.S.O. 1950, c. 103, s. 10.

Widow's
preferential
share where
estate does
not exceed
\$5,000

11.—(1) The real and personal property of every man dying intestate and leaving a widow, whether or not he leaves issue, where the net value of such real and personal property

does not exceed \$5,000, belongs to his widow absolutely and exclusively.

(2) Where the net value exceeds \$5,000, the widow is entitled to \$5,000 part thereof, absolutely and exclusively, and has a charge thereon for such sum with interest thereon from the date of the death of the intestate at 4 per cent per annum until payment. Where estate exceeds \$5,000

(3) The provision for the widow made by this section is in addition and without prejudice to her interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$5,000 and interest in the same way as if such residue had been the whole of the intestate's real and personal property and this section had not been enacted. Widow's share in remainder of estate

(4) Where the estate consists in whole or in part of real property, this section applies only if the widow elects under section 8 to take an interest in her husband's undisposed-of real property in lieu of dower. Where estate consists of real property

(5) In this section, "net value" means the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty. R.S.O. 1950, c. 103, s. 11. Interpretation

12.—(1) The real and personal property of every woman dying intestate and leaving a widower whether or not she leaves issue shall, where the net value of such real and personal property does not exceed \$5,000, belong to her widower absolutely and exclusively. Widower's preferential share where estate does not exceed \$5,000

(2) Where the net value exceeds \$5,000, the widower is entitled to \$5,000 part thereof, absolutely and exclusively, and has a charge thereon for such sum with interest thereon from the date of the death of the intestate at 4 per cent per annum until payment. Where estate exceeds \$5,000

(3) The provision for the widower made by this section is in addition and without prejudice to his interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$5,000 and interest in the same way as if such residue had been the whole of the intestate's real and personal property and this section had not been enacted. Widower's share in remainder of estate

Application

(4) This section applies only where the husband has not elected under section 29 to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed.

Interpre-
tation

(5) In this section, "net value" means the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty. 1960, c. 26, s. 1.

Vesting of
real estate
not disposed
of within
3 years

R.S.O. 1960,
cc. 204, 348

13.—(1) Real property not disposed of, conveyed to, divided or distributed among the persons beneficially entitled thereto under section 21 by the personal representative within three years after the death of the deceased shall, subject to *The Land Titles Act* in the case of land registered under that Act and subject to subsections 6 and 7 of section 58 of *The Registry Act*, and subject as hereinafter provided, at the expiration of that period, whether probate or letters of administration have or have not been taken, is thenceforth vested in the persons beneficially entitled thereto under the will or upon the intestacy or their assigns without any conveyance by the personal representative, unless such personal representative, if any, has registered, in the property registry or land titles office, a caution (Form 1) under his hand, and, if such caution is so registered, such real property or the part thereof mentioned therein does not so vest for three years from the time of registration of such caution or of the last caution if more than one are registered.

Verification

(2) The execution of every caution shall be verified by the affidavit of a subscribing witness in the manner prescribed by *The Registry Act* or *The Land Titles Act*, as the case may be.

Effect

(3) Where the caution specifies certain parcels of land, it is effectual as to those parcels only.

Withdrawal
of caution

(4) The personal representative, before the expiration of the three years, may register a certificate (Form 2) withdrawing the caution or withdrawing it as to any parcel of land specified in the certificate, and upon registration of the certificate, the property or the parcel specified shall be treated as if the caution had expired.

Verification

(5) The certificate of withdrawal shall be verified by an affidavit of a subscribing witness (Form 3).

Renewal of
caution

(6) Before a caution expires it may be re-registered, and so on from time to time as long as the personal representative

deems it necessary, and every caution continues in force for three years from the time of its registration or re-registration. R.S.O. 1950, c. 103, s. 12 (1-6).

14. Nothing in section 13 derogates from any right possessed by an executor or administrator with the will annexed under a will or under *The Trustee Act* or from any right possessed by a trustee under a will. R.S.O. 1950, c. 103, s. 13. Ordinary rights of executors, etc., preserved R.S.O. 1960, c. 408

15.—(1) Where a personal representative has not registered a caution within the proper time after the death of the deceased or has not re-registered a caution within the proper time, he may register or re-register the caution, as the case may be, provided he registers therewith, Registration of caution after three years from death of testator

- (a) the affidavit of execution; and
- (b) a further affidavit stating that he finds or believes that it is or may be necessary for him to sell the real property of the deceased, or the part thereof mentioned in the caution, under his powers and in fulfilment of his duties, and, as far as they are known to him, the names of all persons beneficially interested in the real property, and whether any, and, if so, which of them, are infants or mentally incompetent persons; and
- (c) the consent in writing of every adult and of the Official Guardian on behalf of every infant and mentally incompetent person whose property or interest would be affected, and an affidavit verifying such consent; or
- (d) in the absence and in lieu of such consent, an order of a judge of the Supreme Court or of the county or district court of the county or district in which the property or a part of it is situate, or the certificate of the Official Guardian authorizing the caution to be registered or re-registered, which order or certificate the judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the caution to be registered or re-registered, and the order or certificate to be registered does not require verification and shall not be rendered null by any defect of form or otherwise.

Application
of section

(2) This section extends to cases where a grant of probate of the will or of administration to the estate of the deceased may not have been made within the period after the death of the testator or intestate within which a caution is required to be registered.

Effect of
such regis-
tration

(3) Where a caution is registered or re-registered under this section, it has the same effect as a caution registered within the proper time after the death of the deceased and of vesting or re-vesting, as the case may be, the real property of the deceased in his personal representative, save as to persons who in the meantime have acquired rights for valuable consideration from or through a person beneficially entitled, and save also and subject to any equities of any non-consenting person beneficially entitled, or of a person claiming under him, for improvements made after the time within which the personal representative might, without any consent, order or certificate, have registered or re-registered a caution, if his real property is afterwards sold by the personal representative.

Signature
to caution

(4) Where there are two or more personal representatives, it is sufficient if a caution or the affidavit mentioned in clause *b* of subsection 1 is signed or made by one of such personal representatives. R.S.O. 1950, c. 103, s. 14.

Effect of
repealing
enactment

16. Where a caution has been registered or re-registered under any enactment repealed and not re-enacted by this Act and is still in force, such caution has the same effect as if such enactment had not been repealed and may be registered in the manner provided by section 13. R.S.O. 1950, c. 103, s. 15.

Vacating
caution

17. Any person beneficially entitled to any real property affected by the registration or re-registration of a caution may apply to a judge to vacate the registration or re-registration, and the judge, if satisfied that the vesting of any such real property in such person or of any property of the deceased in any other of the persons beneficially entitled ought not to be delayed, may order that the registration or re-registration be vacated as to such property, and every caution, the registration or re-registration of which is so vacated, thereafter ceases to operate. R.S.O. 1950, c. 103, s. 16.

Land
in two or
more
persons

18. Where real property becomes vested under this Act in two or more persons beneficially entitled under this Act, they take as tenants in common in proportion to their respective rights, unless in the case of a devise they take otherwise under the will of the deceased. R.S.O. 1950, c. 103, s. 17.

19.—(1) Where an infant is interested in real property ^{Sales where infants interested} that but for this Act would not devolve on the personal representative, no sale or conveyance is valid under this Act without the written approval of the Official Guardian, or, in the absence of such consent or approval, without an order of a judge.

(2) A judge may appoint the local judge of a county or ^{Local guardians} district or the local master therein as local guardian of infants in such county or district during the pleasure of the judge, with authority to give such written approval instead of the Official Guardian, and the Official Guardian and local guardian are subject to such rules as the court may make in regard to their authority and duties under this Act. R.S.O. 1950, c. 103, s. 18.

20. Except as otherwise provided in this Act, the personal ^{Power of personal representative over real property} representative of a deceased person has power to dispose of and otherwise deal with the real property vested in him by virtue of this Act, with the like incidents, but subject to the like rights, equities and obligations, as if the real property were personal property vested in him. R.S.O. 1950, c. 103, s. 19.

21.—(1) The powers of sale conferred by this Act on a ^{Powers of executors and administrators as to selling and conveying real estate} personal representative may be exercised for the purpose not only of paying debts but also of distributing or dividing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and in no case is it necessary that the persons beneficially entitled concur in any such sale except where it is made for the purpose of distribution only. R.S.O. 1950, c. 103, s. 20 (1).

(2) Except with the approval of the majority of the persons ^{Concurrence of heirs and devisees} beneficially entitled thereto representing together not less than one-half of all the interests therein, including the Official Guardian acting on behalf of an infant or mentally incompetent person, no sale of any such real property made for the purpose of distribution only is valid as respects any person beneficially entitled thereto unless he concurs therein, but, where a mentally incompetent person is beneficially entitled or where there are other persons beneficially entitled whose consent to the sale is not obtained by reason of their place of residence being unknown or where in the opinion of the Official Guardian it would be inconvenient to require the concurrence of such persons, the Official Guardian may, upon proof satisfactory to him that the sale is in the interest and to the advantage of the estate of the deceased person and the persons beneficially interested therein, approve the sale on

behalf of such mentally incompetent person and non-concurring persons, and any such sale made with the written approval of the Official Guardian is valid and binding upon such mentally incompetent person and non-concurring persons, and for this purpose the Official Guardian has the same powers and duties as he has in the case of infants, but in any case a judge may dispense with the concurrence of the persons beneficially entitled or any or either of them. R.S.O. 1950, c. 103, s. 20 (2), *amended*.

Powers of
personal
representa-
tive as
to dividing
estate among
persons
entitled

(3) The personal representative has power, with the concurrence of the adult persons beneficially entitled thereto, and with the written approval of the Official Guardian on behalf of infants or mentally incompetent persons, if any, so entitled, to convey, divide or distribute the estate of the deceased person or any part thereof among the persons beneficially entitled thereto according to their respective shares and interests therein.

Concurrence
where person
is a patient
in a mental
hospital
R.S.O. 1960,
c. 236

(4) Where a person beneficially entitled is a patient in an institution within the meaning of *The Mental Hospitals Act* and the Public Trustee is committee of his estate, the concurrence and approval required by subsections 2 and 3 may be given by the Public Trustee on behalf of such patient. R.S.O. 1950, c. 103, s. 20 (3, 4).

Distribution
by order
within
three years
from death

(5) Upon the application of the personal representative or of any person beneficially entitled, the court may, before the expiration of three years from the death of the deceased, direct the personal representative to divide or distribute the estate or any part thereof to or among the persons beneficially entitled according to their respective rights and interests therein. R.S.O. 1950, c. 103, s. 20 (5), *amended*.

Exercise of
power of
division
without con-
currence

(6) The power of division conferred by subsection 3 may also be exercised, although all the persons beneficially interested do not concur, with the written approval of the Official Guardian, which may be given under the same conditions and with the like effect as in the case of a sale under subsection 2. R.S.O. 1950, c. 103, s. 20 (6).

Sections 20
and 21
not to
apply to ad-
ministrators
of personal
estate only

(7) Section 20 and this section do not apply to an administrator where the letters of administration are limited to the personal property, exclusive of the real property, and do not derogate from any right possessed by a personal representative independent of this Act, but an executor shall not exercise the powers conferred by this section until he has obtained probate of the will except with the approval of a judge.

(8) The powers of a personal representative under sub-section 2, 3 or 6 have heretofore been and shall hereafter be exercisable during the period of three years from the death of the deceased without an order of a judge, provided that,

Conveyance
by personal
representa-
tive without
an order

- (a) real property conveyed, divided or distributed by virtue of such powers to or among the persons beneficially entitled thereto, shall be deemed to have been and to be liable for the payment of the debts of the deceased owner as if no conveyance, division or distribution had been made, even though it has subsequently during such three-year period been conveyed to a purchaser or purchasers in good faith and for value, but, in the case of such purchaser or purchasers, such liability shall only continue after the expiry of such three-year period if some action or legal proceeding has been instituted by the creditor, his assignee or successor to enforce the claim and a *lis pendens* or a caution has, before such expiry, been registered against the property; and that
- (b) although such liability has applied and shall apply as aforesaid in respect of real property so conveyed, divided or distributed, any such purchaser, in good faith and for value, shall be deemed to have had and to have a right to relief over against the persons beneficially entitled, and where such conveyance, division or distribution was made by the personal representative with knowledge of the debt in respect of which claim is made, or without due advertisement for creditors, then against such personal representative; and that
- (c) upon the expiration of such three-year period where no *lis pendens* or caution has been registered, sub-section 2 of section 24 and section 26 apply as if such real property had become vested in the person beneficially entitled thereto under section 13. R.S.O. 1950, c. 103, s. 20 (7, 8), *amended*.

22. The acceptance by an adult of his share of the purchase money in the case of a sale by a personal representative that has been made without the written approval of the Official Guardian, where such approval is required, is a confirmation of the sale as to him. R.S.O. 1950, c. 103, s. 21.

Effect of
accepting
share of pur-
chase money

23. A person purchasing in good faith and for value real property from a personal representative in a manner authorized by this Act is entitled to hold it freed and discharged from any debts or liabilities of the deceased owner, except such as

Protection of
bona fide
purchasers
from per-
sonal repre-
sentatives

are specifically charged thereon otherwise than by his will, and from all claims of the persons beneficially entitled thereto, and is not bound to see to the application of the purchase money. R.S.O. 1950, c. 103, s. 22.

Protection of
bona fide
purchasers
from
beneficiary

24.—(1) A person purchasing real property in good faith and for value from a person beneficially entitled, to whom it has been conveyed by the personal representative, by leave of a judge, is entitled to hold it freed and discharged from any debts and liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will, but nothing in this section affects the rights of creditors as against the personal representative personally, or as against any person beneficially entitled to whom real property of a deceased owner has been conveyed by the personal representative. R.S.O. 1950, c. 103, s. 23 (1), *amended*.

Extent to
which real
property
remains
liable to
debts and
personal
liability of
beneficiary

(2) Real property that becomes vested in a person beneficially entitled thereto under section 13 continues to be liable to answer the debts of the deceased owner so long as it remains vested in such person, or in any person claiming under him, not being a purchaser in good faith and for valuable consideration, as it would have been if it had remained vested in the personal representative, and in the event of a sale thereof in good faith and for value by such person beneficially entitled he is personally liable for such debts to the extent of the proceeds of such real property. R.S.O. 1950, c. 103, s. 23 (2).

Powers of
personal re-
presentative
as to leasing
and mort-
gaging

25.—(1) The powers of a personal representative under this Act include,

- (a) power to lease from year to year while the real property remains vested in him;
- (b) power, with the approval of the majority of the persons beneficially entitled thereto representing together not less than one-half of all the interests therein including the Official Guardian acting on behalf of an infant or mentally incompetent person, to lease for a longer term;
- (c) power to mortgage for the payment of debts.

Approval of
Official
Guardian

(2) The written approval of the Official Guardian to mortgaging is required where it would be required if the real property were being sold. R.S.O. 1950, c. 103, s. 24.

26.—(1) A purchaser in good faith and for value of real property of a deceased owner that has become vested under section 13 in a person beneficially entitled thereto is entitled to hold it freed and discharged from the claims of creditors of the deceased owner except such of them of which he had notice at the time of his purchase. Rights of purchaser in good faith against claims of creditors

(2) Nothing in subsection 1 affects the right of the creditor against the personal representative personally where he has permitted the real property to become vested in the person beneficially entitled to the prejudice of the creditor or against the person beneficially entitled. R.S.O. 1950, c. 103, s. 25 Liability of personal representative

27. Subject to subsection 1 of section 6 of *The Legitimation Act*, an illegitimate child or relative shall not share under any of the provisions of this Act. R.S.O. 1950, c. 103, s. 26; 1953, c. 29, s. 1. Effect of illegitimacy R.S.O. 1960, c. 210

28.—(1) If a child of an intestate has been advanced by the intestate by settlement or portion of real or personal property or both, and the same has been so expressed by the intestate in writing or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal property of the intestate to be distributed under this Act, and if the advancement is equal to or greater than the amount of the share that the child would be entitled to receive of the real and personal property of the intestate, as so reckoned, then the child and his descendants shall be excluded from any share in the real and personal property of the intestate. Cases of children advanced by settlement, etc.

(2) If the advancement is less than the share, the child and his descendants are entitled to so much only of the real and personal property as is sufficient to make all the shares of the children in the real and personal property and advancement to be equal, as nearly as can be estimated. If advancement is not equal

(3) The value of any real or personal property so advanced shall be deemed to be that, if any, which has been acknowledged by the child by an instrument in writing, otherwise the value shall be estimated according to the value of the property when given. Value of property advanced, how estimated

(4) The maintaining or educating, of, or the giving of money to, a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R.S.O. 1950, c. 103, s. 27. Education, etc., not advancement

Distribution
of property
of married
woman
dying
intestate

29.—(1) Subject to section 12, the real and personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate shall be distributed as follows: one-third to her husband if she leaves issue, and one-half if she leaves no issue, and, subject thereto, devolves as if her husband had predeceased her. R.S.O. 1950, c. 103, s. 28 (1); 1960, c. 26, s. 2.

Saving as to
husband's
interest in
property of
wife

(2) A husband who, if this Act had not been passed, would be entitled to an interest as tenant by the curtesy in real property of his wife, may, by deed or instrument in writing executed and attested by at least one witness and delivered to the personal representative, if any, or, if there is none, deposited in the office of the Registrar of the Supreme Court at Osgoode Hall within six months after his wife's death, elect to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed, in which case the husband's interest therein shall be ascertained in all respects as if this Act had not been passed, and he is entitled to no further interest thereunder. R.S.O. 1950, c. 103, s. 28 (2).

Distribution
of personal
estate

R.S.O. 1960,
c. 210

30. Subject to subsection 2 of section 6 of *The Legitimation Act* and except as otherwise provided in this Act, the personal property of a person dying intestate shall be distributed as follows: one-third to the wife of the intestate and all the residue by equal portions among the children of the intestate and such persons as legally represent the children in case any of them died in his lifetime, and, if there are no children or any legal representatives of them, then two-thirds of the personal property shall be allotted to the wife and the residue thereof shall be distributed equally to every of the next of kindred of the intestate who are of equal degree and those who legally represent them, and for the purpose of this section the father and the mother and the brothers and the sisters of the intestate shall be deemed of equal degree; but there shall be no representations admitted among collaterals after brothers' and sisters' children, and, if there is no wife, then all such personal property shall be distributed equally among the children, and, if there is no child, then to the next of kindred in equal degree of or unto the intestate and their legal representatives and in no other manner; but, if there is only one child or there are legal representatives of only one child, the personal property of a person dying intestate shall be distributed as follows: one-half to the wife of the intestate and the other half to the child or the legal representatives of the child. R.S.O. 1950, c. 103, s. 29; 1953, c. 29, s. 2.

31. If after the death of a father any of his children die intestate without wife or children in the lifetime of the mother, ^{Children share with mother} every brother and sister and the representatives of them shall have an equal share with her, anything in section 30 to the contrary notwithstanding. R.S.O. 1950, c. 103, s. 30.

32. Subject to section 52 of *The Trustee Act*, no such distribution shall be made until after one year from the death of the intestate, and every person to whom in distribution a share is allotted shall, if any debt owing by the intestate is afterwards sued for and recovered or otherwise duly made to appear, refund and pay back to the personal representative his rateable part of that debt and of the costs of suit and charges of the personal representative by reason of such debt out of the part or share so allotted to him, thereby to enable the personal representative to pay and satisfy such debt, and shall give bond with sufficient sureties that he will do so. ^{Distribution not to be made for one year R.S.O. 1960, c. 408} R.S.O. 1950, c. 103, s. 31.

33. Rules regulating the practice and procedure to be followed in all proceedings under this Act and a tariff of fees to be allowed and paid to solicitors for services rendered in such proceedings may be made by the Rules Committee, subject to the approval of the Lieutenant Governor in Council. ^{Rules of procedure} R.S.O. 1950, c. 103, s. 32.

34. The Lieutenant Governor in Council may appoint a deputy *pro tempore* of the Official Guardian for the purposes of this Act who shall have all the powers of the Official Guardian for such purposes. ^{Appointment of deputy Official Guardian pro tem} R.S.O. 1950, c. 103, s. 33.

35. Affidavits may be used in proceedings taken under this Act. ^{Affidavits} R.S.O. 1950, c. 103, s. 34.

FORM 1

*The Devolution of Estates Act**(Section 13 (1))*

CAUTION

I,....., executor of (*or* administrator with the will annexed of, *or* administrator of)....., who died on or about the.....day of....., 19....., certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (*or* administrator) to sell the real property of the said.....or part thereof (*or* the caution may specify any particular part or parcel) and of this all persons concerned are hereby required to take notice.

R.S.O. 1950, c. 103, Form 1.

FORM 2

*The Devolution of Estates Act**(Section 13 (4))*

CERTIFICATE OF WITHDRAWAL

I,....., executor (*or* administrator) of hereby withdraw the caution heretofore registered with respect to the real property of.....(*or as the case may be*).

R.S.O. 1950, c. 103, Form 2.

FORM 3

*The Devolution of Estates Act**(Section 13 (5))*

AFFIDAVIT OF WITNESS

I,....., of, etc., make oath and say: that I am well acquainted with.....named in the above certificate; that I was present and did see the said certificate signed by the said; that I am a subscribing witness to the said certificate, and that I believe the said.....is the person who registered the caution referred to in the said certificate.

Sworn, etc.

R.S.O. 1950, c. 103, Form 3.

CHAPTER 107

The Disabled Persons' Allowances Act

1. In this Act,

Interpre-
tation

- (a) "allowance" means a disabled person's allowance provided under this Act and the regulations to the persons and under the conditions specified in any agreement made under section 13;
- (b) "Director" means the Director of the Welfare Allowances Branch of the Department of Public Welfare;
- (c) "investigator" means an investigator within the meaning of *The Old Age Assistance Act*;
- (d) "local authority" means a local authority within the meaning of *The Old Age Assistance Act*;
- (e) "Minister" means the Minister of Public Welfare;
- (f) "recipient" means a person to whom an allowance is granted, and includes an applicant for an allowance;
- (g) "regulations" means the regulations made under this Act;
- (h) "unmarried person" includes a widow, a widower, a divorced person, and a married person who, in the opinion of the Director, is living separate and apart from his spouse, 1955, c. 17, s. 1; 1957, c. 28, s. 1; 1958, c. 24, s. 1.

R.S.O. 1960,
c. 267

2. It is the duty of the Director,

Duties of
director

- (a) to receive applications for allowances; and
- (b) to determine the eligibility of each applicant for an allowance, and, where the applicant is eligible, to determine the amount thereof and direct payment accordingly. 1955, c. 17, s. 3.

3. Where the Director is absent or there is a vacancy in the office, his powers and duties shall be exercised and performed by such civil servant as the Minister designates. 1955, c. 17, s. 4.

Acting
Director

When
allowance
payable

4. An allowance is payable monthly in arrears. 1955, c. 17, s. 5.

Allowances
exempt from
taxation

5.—(1) An allowance is exempt from provincial and municipal taxes.

Allowances
not assign-
able

(2) An allowance is not subject to alienation or transfer by the recipient.

Allowances
not subject
to seizure

(3) An allowance is not subject to attachment or seizure in satisfaction of any claim against the recipient. 1955, c. 17, s. 6.

Voting
rights

6. The receipt of an allowance does not by itself constitute a disqualification of the recipient from voting at any provincial or municipal election. 1955, c. 17, s. 7.

When
allowance
may be paid
to trustee

7. In the case of a recipient who, in the opinion of the Director, is using or is likely to use the allowance otherwise than for his own benefit or is incapable of handling his affairs, the Director may direct that the allowance be paid to a trustee for the benefit of the recipient. 1955, c. 17, s. 8.

Refusal of
Canada to
contribute

8. Where an allowance has been paid and the Government of Canada,

(a) refuses to pay any amount in respect thereof; or

(b) rules that overpayments have been made to the recipient,

the Lieutenant Governor in Council may direct that all payments which at that time have been made shall be deemed to be expenses incurred in the administration of this Act. 1955, c. 17, s. 9.

When
payment of
allowances
to cease
1953-54,
c. 55 (Can.)

9. If for any reason the Government of Canada ceases to make the contributions provided for under the *Disabled Persons Act* (Canada) or fails to carry out any agreement referred to in section 13, all allowances under this Act thereafter cease and no further payments of allowances shall be made. 1955, c. 17, s. 10.

Funds for
purposes
of Act

10. Allowances and the expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1955, c. 17, s. 11.

11. The Lieutenant Governor in Council may make regu-^{Regulations}lations,

- (a) governing the manner of making application for an allowance;
 - (b) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before an allowance is paid;
 - (c) prescribing the manner in which allowances are to be paid;
 - (d) providing for the suspension and cancellation of allowances;
 - (e) providing for the whole or part of the cost of providing medical and dental services to recipients or any class or group thereof;
 - (f) prescribing the powers and duties of investigators and local authorities;
 - (g) providing for the making of investigations respecting persons to whom allowances may be paid or by whom or on whose behalf application has been made for an allowance or who are in receipt of an allowance;
 - (h) establishing an advisory board of one or more persons to assist the Director;
 - (i) prescribing forms and providing for their use;
 - (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- 1955, c. 17, s. 12.

12.—(1) No person shall knowingly obtain or receive an ^{Prohibition}allowance that he is not entitled to obtain or receive under this Act and the regulations.

(2) No person shall knowingly aid or abet another person ^{Idem}to obtain or receive an allowance that such other person is not entitled to obtain or receive under this Act and the regulations.

Offence (3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than three months, or to both. 1955, c. 17, s. 13.

Agreements
with Canada
authorized **13.**—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada to provide for payment by Canada to Ontario in accordance with the *Disabled Persons Act* (Canada) and the regulations made under it of any portion of the amounts of allowances paid by Ontario under this Act and the regulations.

1953-54,
c. 55 (Can.)

Payment
authorized (2) Allowances may be paid in accordance with any agreement made under subsection 1. 1957, c. 28, s. 3

CHAPTER 108

The Disorderly Houses Act

1. In this Act,

Interpre-
tation

- (a) "court" means the county or district court of the county or district in which a place is situate;
- (b) "place" includes a house, building, office, room or other premises or any part thereof, whether enclosed or not, and whether used permanently or temporarily, and whether there is or is not exclusive right of user. R.S.O. 1950, c. 104, s. 1.

2.—(1) Upon the application by originating notice of motion of the Attorney General or any other person, the court may make an order closing any place with respect to which a conviction has been made within the preceding three months under section 176, 177 or 182 of the *Criminal Code* (Canada) against its use for all or any purposes for any period not exceeding one year.

Closing
order1953-54,
c. 51 (Can.)

(2) Notice of the motion shall be served upon the registered owner and the lessee, tenant or other occupant of such place if they can be found within the county or district, and, if they cannot so be found, service may be made by delivering a copy of the notice to an inmate of such place apparently not under sixteen years of age, or in such other manner as the court directs.

Service of
notice

(3) A copy of the conviction under the hand of a magistrate or clerk of the peace is admissible in evidence as *prima facie* proof of the conviction and that the place therein described was the place with respect to which the conviction took place and of the date thereof.

Proof of
conviction

(4) An order made under this section does not affect the rights of any person in the place described therein acquired after the making of such order without notice, in good faith and for valuable consideration. R.S.O. 1950, c. 104, s. 2.

Rights of
innocent
purchaser

3.—(1) Upon the application by originating notice of motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made

Suspensory
order

1953-54,
c. 51 (Can.)

under section 2 and upon his establishing his good faith and his ignorance of the unlawful use to which the place was put and upon his furnishing a cash bond in the sum of \$1,000, or such greater sum as the court determines, to be deposited in court as security that the place will not be used during the term of the order for any purpose contrary to section 176, 177 or 182 of the *Criminal Code* (Canada), the court may make an order suspending the operation of the order that closed the place.

Service
of notice

(2) Notice of the motion shall be served upon the Attorney General and upon the Crown attorney of the county or district in which the place is situate.

Further
conviction

(3) Upon the conviction of any person for an offence against either of the sections mentioned in subsection 1 with respect to such place after the giving of such security, the court may upon summary application order the forfeiture of the bond and the payment to the Crown of the money deposited thereunder, and such order shall direct that the order made under section 2 has full force and effect and may be registered in the same manner as the order made under section 2. R.S.O. 1950, c. 104, s. 3.

Registration

4. An order made under section 2 or 3 may be registered in the registry office or land titles office in which the title to the place described in the order is recorded. R.S.O. 1950, c. 104, s. 4.

Limited
occupancy

5.—(1) Upon the application by originating notice of motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made under section 2 and upon his establishing that the place or its contents is or are likely to suffer damage by reason of the closing order, the court may make an order containing such conditions and limitations as the court sees fit to impose and permitting the occupation of the place so far as may be necessary to prevent it or its contents from suffering damage.

Service
of notice

(2) Notice of the motion shall be served upon the Attorney General and upon the Crown attorney of the county or district in which the place is situate. R.S.O. 1950, c. 104, s. 5.

No appeal

6. There is no appeal from an order made under this Act. R.S.O. 1950, c. 104, s. 6.

Rules of
practice

7.—(1) The rules relating to practice and procedure in the county and district courts, except in so far as they are varied or amended by the Lieutenant Governor in Council, apply to proceedings under this Act.

(2) The Lieutenant Governor in Council may make rules ^{Power to} prescribing, _{make rules}

- (a) the practice and procedure under this Act;
- (b) the forms to be used under this Act. R.S.O. 1950, c. 104, s. 7.

8. Where an order has been made under section 2 and the place described therein is used in contravention of the order, ^{Violation} _{of closing order}

- (a) the registered owner of the place; and
- (b) any person found in the place while it is being so used,

shall be deemed to have contravened the order, unless, in the case of a person mentioned in clause *b*, he was there for a lawful purpose, the proof whereof is upon him. R.S.O. 1950, c. 104, s. 8.

9.—(1) Every person who contravenes any of the provisions ^{Offence} of this Act or of any order made hereunder is guilty of an offence and on summary conviction is liable to imprisonment for a term of not less than one month and not more than twelve months.

(2) Where a person convicted under subsection 1 is a ^{Where} _{person a} corporation, it is liable to a fine of not less than \$1,000 and ^{corporation} not more than \$5,000. R.S.O. 1950, c. 104, s. 9.

CHAPTER 109

The Ditches and Watercourses Act**1. In this Act,**Interpre-
tation

- (a) “clear days” means exclusive of the first and last days of any number of days prescribed;
- (b) “construction” means the original opening or making of a ditch by artificial means;
- (c) “county” includes a district;
- (d) “county court” includes a district court;
- (e) “ditch” means a drain opened or covered wholly or in part, and whether or not in the channel of a natural stream, creek or watercourse, and includes the work and material necessary for bridges, culverts, catch-basins and guards;
- (f) “engineer” means the person or firm appointed by a municipal council as engineer to carry out this Act, and any member of the firm may act as engineer if his name is included in the by-law appointing the engineer;
- (g) “judge” means the senior, junior or acting judge of the county court of the county in which the lands, in respect of which the proceedings under this Act are taken, are situate;
- (h) “maintenance” means the preservation and keeping in repair of a ditch;
- (i) “non-resident” means a person who does not reside in the municipality in which his land, affected by proceedings under this Act, is situate;
- (j) “owner” means the owner or possessor of any real or substantial interest in land, whether held in fee simple, fee tail, for one or more life or lives or for a term of years not less than ten, and includes a lessee for a term of not less than five years with an option

to purchase, the personal representative of a deceased owner, the committee of a mentally incompetent owner, the guardian of an infant owner, any person entitled to sell and convey the land, an agent under a general power of attorney authorizing the appointee to manage and lease the land, and a municipal corporation as regards any highway or other land under its jurisdiction. R.S.O. 1950, c. 105, s. 2.

Certain Acts
not affected

2. This Act does not affect the Acts relating to municipal or government drainage work. R.S.O. 1950, c. 105, s. 1.

Drainage of
lands for
mining or
manufac-
turing pur-
poses

3.—(1) This Act applies to the drainage, among other land, of land for mining or manufacturing purposes, so as to enable the owner thereof to take proceedings thereunder, but in such case the engineer, in default of agreement, shall determine whether the land of other owners through which the ditch may pass shall be called upon to contribute to the construction of the ditch, and whether and to what extent such land may require drainage or will be benefitted thereby.

Lands of
other
owners

(2) Where the engineer finds that the land of such other owners does not require drainage and that the ditch will not substantially benefit such land, he shall determine what compensation the owner of the land used for mining or manufacturing purposes shall make for any injury caused to such other owners by reason of the ditch passing through their land, but, if such land will be substantially benefitted by such drainage, he shall determine the extent of the benefit and shall deduct it from the amount of compensation so to be made, or shall take the proceedings provided for by subsection 3 of section 15, as the case may require. R.S.O. 1950, c. 105, s. 3.

Appoint-
ment of
engineer

4.—(1) The council of every local municipality shall by by-law (Form 1) appoint a civil engineer, Ontario land surveyor or other competent person to be the engineer to carry out the provisions of this Act, and he shall be and continue an officer of the corporation until another engineer is appointed in his stead who may continue any work already undertaken, and, in case another engineer is appointed, the clerk of the municipality forthwith thereafter shall give notice of such appointment to the former engineer.

Fees of
clerk and
engineer

(2) The council shall also by by-law provide for the payment to the clerk of the municipality of a reasonable remuneration for services performed by him in carrying out the provisions of this Act, and shall also by by-law fix the charges to be made by the engineer for services performed by him under this Act.

(3) Every engineer before entering upon his duties shall take and subscribe the following oath and shall file it with the clerk of the municipality:

In the matter of *The Ditches and Watercourses Act*.

I (*name in full*) of the of in the county (*or district*) of, engineer (*or surveyor, or as the case may be*), make oath and say (*or do solemnly declare and affirm*) that I will to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against, any owner or owners perform the duties from time to time assigned to me in connection with any work under *The Ditches and Watercourses Act*, and make a true and just award thereon.

Sworn, etc.

R.S.O. 1950, c. 105, s. 4.

5.—(1) Every ditch constructed under this Act shall be continued to a sufficient outlet, but shall not pass through or into more than seven original township lots, exclusive of any part of the ditch on or across a road allowance, unless the council of any municipality, upon the petition of a majority of the owners of all the land to be affected by the ditch, passes a resolution authorizing the extension thereof through or into any other lots within such municipality, or any adjoining municipality, and upon the passing of such resolution the proposed ditch may, subject to subsection 2, be extended in pursuance of such resolution.

(2) No ditch, the whole cost of which according to the estimate of the engineer or the agreement of the parties will exceed \$2,500, shall be constructed under this Act. R.S.O. 1950, c. 105, s. 5.

6. The land, the owners of which may be made liable for the construction of a ditch under this Act, shall be that lying within 150 rods from the sides and point of commencement of the ditch. R.S.O. 1950, c. 105, s. 6.

7.—(1) The owner of land who requires the construction of a ditch thereon, before filing with the clerk of the municipality the requisition provided for by section 12, shall serve upon the owners or occupants of the other land to be affected a notice in writing (Form 2) signed by him and naming a day and hour and also a place convenient to the site of the ditch, at which all the owners are to meet and estimate the

cost of the ditch and agree, if possible, upon the apportionment of the work and supply of material for construction among the several owners according to their respective interests therein, and settle the proportions in which the ditch shall be maintained.

Service of
notice

(2) The notices shall be served not less than twelve clear days before the time named therein for meeting.

Application
to set aside
proceedings
where re-
quisitioner
is not
owner

(3) The owner or occupant of any land to be affected who has been served with the notice mentioned in subsection 1 may within five clear days after service of the notice upon him apply to the judge to set aside the proceedings on the ground that the person who commenced them is not an owner within the meaning of this Act.

Presump-
tion of
ownership,
when con-
clusive

(4) If such application is not made or, if made, is unsuccessful, the right of the person who commenced the proceedings to do so shall not thereafter be open to question, but shall be conclusively presumed. R.S.O. 1950, c. 105, s. 7.

Form of
agreement,
filing

8. If an agreement is arrived at by the owners, it shall be reduced to writing (Form 3) and signed by all the owners, and shall within six days after the signing thereof be filed with the clerk of the municipality in which the land, the owner of which requires the ditch, is situate, but, if the lands affected lie in two or more municipalities, the agreement shall be in as many parts as there are municipalities and one part shall be filed with the clerk of each municipality, and the agreement may be enforced in the same manner as an award of the engineer as hereinafter provided. R.S.O. 1950, c. 105, s. 8.

Informalities
not to
invalidate
proceedings

9. Want of strict compliance with sections 7 and 8 does not avoid any proceedings taken or agreement made and entered into thereunder, or invalidate any subsequent proceedings taken thereunder, if such notices have been duly served and the apportionment of the work and supply of material for construction among the several owners and settlement of the proportions in which the ditch shall be maintained are set forth in the agreement, and any such agreement may be amended so as to conform to this Act, with the consent in writing of the parties thereto, filed in the same manner as the agreement, or by order of the judge on an appeal under this Act. R.S.O. 1950, c. 105, s. 9.

Adjourn-
ing meeting
for purpose
of adding
parties

10. If at the meeting of owners it appears that the notice required by section 7 has not been duly served, the owners present at such meeting may adjourn the meeting to some subsequent day to enable the necessary notices to be served, and,

if such notices have been served, the adjourned meeting is a sufficient compliance with this Act. R.S.O. 1950, c. 105, s. 10.

11. The head of the council of any municipality may sign the agreement and his signature is binding upon the corporation. R.S.O. 1950, c. 105, s. 11.

Signature
on behalf of
municipality

12. If an agreement is not arrived at by the owners at the meeting or within five days thereafter, the owner requiring the ditch may file with the clerk of the municipality in which his land is situate a requisition (Form 4), naming therein the several parcels of land that will be affected by the ditch and the respective owners thereof, and requesting that the engineer appoint a time and place in the locality of the proposed ditch, at which he will attend to make an examination as hereinafter provided. R.S.O. 1950, c. 105, s. 12.

Requisition
for appointment
by engineer when
no agreement
arrived at

13.—(1) The clerk, upon receiving the requisition, shall forthwith transmit a copy of it by registered mail to the engineer.

Notice to
engineer

(2) Upon the receipt of the copy by the engineer, he shall give to the clerk not less than ten clear days notice in writing by registered mail addressed to him at his last known address of the time when and the place where he will attend in response to the requisition.

Notice to
clerk of
appointment

(3) On the receipt of the notice of the appointment from the engineer, the clerk shall file it with the requisition, and shall forthwith send, by registered mail, a copy of the notice of appointment to the owner making the requisition who shall, at least four clear days before the time so appointed, serve upon the other owners named in the requisition a notice (Form 5) requiring their attendance at the time and place fixed by the engineer, and shall, after serving such notice, endorse on one copy thereof the time and manner of service and leave it with the engineer not later than the day before that fixed in the notice of appointment. R.S.O. 1950, c. 105, s. 13.

Notice to
all parties

14.—(1) Notices shall be served personally or by leaving them at the usual place of residence of the owner or occupant with a grown-up person residing there, and, in the case of non-residents, upon the agent of the owner or by registered mail addressed to the owner at the post office nearest to his last known place of residence, and, where his place of residence is not known, the notice may be served in such manner as the judge directs.

Mode of
serving
notices

Occupant
to notify
owner

(2) An occupant, not the owner of the land, notified in the manner provided by this Act, shall immediately notify the owner thereof and, if he neglects to do so, is liable for all damages suffered by the owner by reason of such neglect. R.S.O. 1950, c. 105, s. 14.

Examina-
tion by
engineer

15.—(1) The engineer shall attend at the time and place appointed by him and shall examine the locality, and, if he deems it proper or if requested by any of the owners, may examine the owners and their witnesses present and take their evidence, and may administer an oath to any owner or witness examined by him.

Adjourn-
ment to
serve other
owners

(2) If upon examining the locality the engineer is of opinion that the land of owners upon whom notice has not been served will be affected by the ditch, he shall adjourn the proceedings to a day named and direct a notice of the adjourned meeting similar to that required by section 13 to be served on such owners by the owner making the requisition for the purpose of allowing such owners to be present and to be heard upon the examination and taking of evidence.

Further
proceed-
ings by
engineer
making
award

(3) The engineer may adjourn his examination and the hearing of evidence from time to time and if he finds that the ditch is required he shall, within sixty days after his first attendance, make his award in writing (Form 6) specifying clearly the location, description and course of the ditch, its commencement and termination, apportioning the work and the furnishing of material among the lands affected and the owners thereof according to his estimate of their respective interests in the ditch, fixing the time for performance by the respective owners, apportioning the maintenance of the ditch among all or any of the owners so that as far as practicable and equitable each owner shall maintain the portion on his own land, and stating the amount of his fees and the other charges and by whom they shall be paid.

Certificate
of engineer
as to fees

(4) If the engineer finds that the ditch is not required or is impracticable or cannot be constructed under this Act, or if the owner filing the requisition neglects or refuses to serve notices as directed by the engineer under subsection 2, the engineer within the time prescribed in subsection 3 shall file with the clerk a certificate stating that he refuses to make an award, his reasons for such refusal, the amount of his fees and the other charges and by whom they shall be paid.

Notice of
certificate
of refusal

(5) Where the engineer files a certificate of refusal under subsection 4, the clerk shall notify the owner who made the requisition and the other owners named in the requisition,

by registered mail or personal service, of the filing of the certificate of refusal, and shall keep a record of the persons to whom he sent notices, the addresses to which the notices were sent, and the date upon which the notices were mailed or personally served.

(6) The period prescribed for the engineer to make his award shall be exclusive of the time required to obtain the approval of the works or the specifications or plans thereof by the Ontario Municipal Board or the Board of Transport Commissioners for Canada, where such approval is necessary. Time for making award not to include certain periods

(7) Where a ditch or a part thereof is to be covered, the engineer shall in his award specify the kind of material to be used in the covered part. Material for covering ditch

(8) The engineer and his assistants, when engaged in the performance of their duties under this Act during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant stakes, take levels and do such work as they deem necessary for the performance of the work on the land of any person, doing no unnecessary damage thereto, without being guilty of trespass or otherwise incurring liability. Powers of engineer

(9) The engineer in making his survey shall establish sufficient bench marks or permanent levels by which a ditch may be governed, and shall also in his award sufficiently record the descriptions, locations and elevations of every bench mark or permanent level by which a ditch is to be governed, and whether such bench marks or permanent levels were established by him or by some other engineer. Bench marks

(10) Every person who interferes with or obstructs the engineer or his assistants in the exercise of the powers conferred by subsection 8 or interferes with, removes or destroys a bench mark or permanent level mark established under subsection 9 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 105, s. 15. Penalty for interference with work or bench marks of engineer

16. Where rock cutting or blasting is necessary, if the engineer is of opinion that it can be done more conveniently or less expensively by letting the work by tender or otherwise by public competition than if it were done by the owners, he may by his award direct that it be so let, and in that case he shall by the award fix and determine the part or proportion of the cost of the work that each of the owners is to pay. R.S.O. 1950, c. 105, s. 16. Rock cutting or blasting

Engineer
may relieve
person not
benefited

17. If the engineer is of the opinion that the land of any owner will not be sufficiently affected by the construction of the ditch to make him liable to perform any part thereof, and that it is or is not necessary, as the case may be, to construct the ditch across or into his land, he may by his award relieve such owner from performing any part of the work of the ditch and may place its construction on the other owners, and any person carrying out the provisions of the award upon the land of the owner so relieved is not a trespasser if he causes no unnecessary damage, and he shall replace any fences opened or removed by him. R.S.O. 1950, c. 105, s. 17.

Award,
plan, etc.

18.—(1) The award and any plan, profile and specifications of the ditch shall be in as many parts as there are municipalities in which land affected by the award is situate.

Filing
award, etc.

(2) The engineer forthwith after making the award shall file one part thereof and of any plan, profile or specifications with the clerk of each of the municipalities, and the same may be given in evidence in any legal proceedings by a copy certified by the clerk.

Notice to
persons
affected

(3) The clerk, upon the filing of the award, shall notify each of the persons affected thereby within the municipality of which he is clerk, by registered mail or personal service, of the filing of the award and the part of the work to be done and material to be furnished by the persons so notified as shown by the award, and shall keep a book in which he shall record the names of the persons to whom he sent notices, the addresses to which they were sent, and the date upon which they were mailed or personally served.

Filing of
documents

(4) The clerk shall index and carefully file in a safe place all agreements and awards made under this Act. R.S.O. 1950, c. 105, s. 18.

Powers of
engineer
of municipality
in which proceedings
commenced

19. If the land affected by the ditch is situate in two or more municipalities, the engineer of the municipality in which proceedings were commenced may continue the ditch into or through so much of the land in any other municipality as is found necessary, but within the limit of length hereinbefore provided, and all proceedings authorized by this Act shall be taken and carried on in the municipality in which the proceedings were commenced. R.S.O. 1950, c. 105, s. 19.

Appeals
from award
to county
judge

20.—(1) Any owner affected by the award, within fifteen clear days from the date of the mailing or service of the last of the notices of the filing of the award, may appeal therefrom to the judge.

(2) The appellant shall serve upon the clerk of the municipality in which the proceedings were commenced a notice in writing of his intention to appeal, shortly setting forth the grounds of appeal. Notice of appeal

(3) The clerk, after the expiration of the time for appeal, shall transmit by registered mail or deliver a copy of the notice or notices of appeal and a certified copy of the award and the plans or specifications to the judge, who shall forthwith, upon the receipt thereof, notify the clerk of the time he appoints for the hearing of the appeal, and shall fix the place of hearing at the town hall or other place of meeting of the council of the municipality in which the proceedings were commenced, unless for greater convenience and to save expense he fixes some other place. Clerk to notify judge, and judge to fix time and place for hearing

(4) The judge may order such sum to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal. Indemnity against costs of appeal

(5) The clerk upon receiving notice from the judge shall forthwith notify the engineer and all parties interested in the manner provided for the service of notices. Notice to engineer and all parties

(6) An appellant may have the land inspected by any other engineer or person who, for such purposes, may enter upon the land, but shall do no unnecessary damage. Inspection of premises by another engineer

(7) The clerk to whom notice of appeal is given shall be the clerk of the court and shall record the proceedings. Clerk of the court

(8) It is the duty of the judge to hear and determine all the appeals within two months after receiving notice thereof from the clerk, or within such further period as, on hearing the parties, he deems necessary, as provided by subsection 9, but no proceedings under this Act are invalid by the failure of the judge to hear and determine the appeal within such period. Judge to hear and determine within two months

(9) The judge may examine parties and witnesses on oath and may inspect the land and may require the engineer to accompany him, and may alter or affirm the award and correct any errors therein. Powers of judge on appeal

(10) If the award is affirmed or altered, the costs of the appeal shall be in the discretion of the judge, but, if set aside, he may order payment of the costs mentioned in the award, and the costs of appeal by the parties to the award, or any of them, as to him seem just, and may fix the amount of such costs. Costs of appeal

Depriving
engineer of
fees when
guilty of
misconduct

(11) If the judge finds that the engineer has knowingly and wilfully favoured any one or more of the parties to the proceedings or has neglected his duty, he may direct that the engineer be deprived of all fees in respect of the award, or of such part thereof as the judge deems proper, but this does not deprive any party to the proceedings of any remedy he otherwise has against the engineer.

Fees and
disburse-
ments of
judge

(12) The judge is entitled to \$5 a day and necessary travelling expenses for holding a court for the trial of appeals, including the inspection of the land, which charge is part of the costs of the appeal.

Enforce-
ment of
award as
amended

(13) The order of the judge shall be filed with the clerk, and the award as altered or affirmed and the order of the judge as to costs may be enforced in the same manner as the award of the engineer, and the time for the performance of the award shall be computed from the date of the judgment on the appeal.

Notice to
other clerks
and owners

(14) The clerk shall immediately after the hearing send by registered mail to the clerk of any other municipality in which land affected by the ditch is situate a certified copy of the changes, if any, made in the award by the judge which shall be filed with the award, and each clerk shall forthwith, by registered mail, notify every owner within his municipality of any change made in the work and material assigned to such owner.

Notice of
setting aside

(15) If the award is set aside, the clerk shall forthwith notify the fact to the clerk of every other municipality in which land affected by the award is situate. R.S.O. 1950, c. 105, s. 20.

Appeal from
refusal of
award

21.—(1) Where the engineer refuses to make an award because the ditch is not required or is impracticable or cannot be constructed under this Act, any owner affected by the refusal, within fifteen clear days from the date of the mailing or service of the last notice under subsection 5 of section 15, may appeal therefrom to the judge.

Judgment
on appeal

(2) Upon the hearing of the appeal, the judge may dismiss the appeal or may allow the appeal and direct the engineer to make an award in the manner provided in subsection 3 of section 15.

Application
of sections
20, 22-25

(3) Except where inconsistent with this section, sections 20, 22, 23, 24 and 25 apply to an appeal under this section, and for the purposes of those sections the certificate of refusal of the engineer shall be deemed to be an award.

(4) Where the judge dismisses the appeal, there is no appeal from his judgment to the drainage referee. R.S.O. 1950, c. 105, s. 21. Judgment dismissing appeal final

22. No award shall be set aside for want of form only or for want of strict compliance with this Act, and the judge, instead of setting aside the award, may amend it or the other proceedings or may refer the award back to the engineer, with such directions as the judge deems necessary. R.S.O. 1950, c. 105, s. 22. Judge may amend or refer back award

23. An award, after the time limited for an appeal to the judge and after the determination of appeals, if any, by him where the award is affirmed, is valid and binding to all intents and purposes notwithstanding any defect in form or substance either in the award or in any of the proceedings prior to the making of the award. R.S.O. 1950, c. 105, s. 23. When award to be binding notwithstanding defects

24. On an appeal from an award, the judge possesses all such powers for compelling the attendance of and for the examination on oath of all parties and other persons that belong to or might be exercised by him in the county court. R.S.O. 1950, c. 105, s. 24. Powers of judge as to taking evidence

25.—(1) Upon an appeal, the clerk shall issue summonses to witnesses upon the application of any party to the proceedings or upon an order of the judge for the attendance of any person as a witness before him. Clerk may issue summonses to witness

(2) The summons has the same force and effect as a subpoena issued out of the county court. Effect of summons

(3) The fees to be allowed to witnesses shall be upon the scale of fees allowed to witnesses in an action in the division court. R.S.O. 1950, c. 105, s. 25. Witness fees

26.—(1) Subject to section 27, the corporation of the municipality in which the proceedings were commenced shall within ten days after the time for appealing or after the determination of the appeals, as the case may be, pay to the engineer and to the judge and all other persons the fees, charges and costs awarded or adjudged to be paid to them, and as respects the portion thereof payable by the owners of land situate within the municipality the same shall be forthwith repaid by the owners to the treasurer of the municipality. Payment of costs by municipality

(2) If default is made by any owner in repaying the amount for which he is liable, the amount, with 7 per cent added thereto, forms a charge on his land and may be collected in Charge of same on land of owner

like manner as municipal taxes, and the council shall cause the same to be placed on the collector's roll and to be so collected.

Where lands
are in more
than one
municipality

(3) Where the land affected by the award is situate within two or more municipalities, the corporation of each of the other municipalities shall forthwith, after notice in writing, repay to the corporation of the municipality in which the proceedings were commenced the sums for which the owners of land within its limits are liable, and subsection 2 applies in respect of the sums so repaid. R.S.O. 1950, c. 105, s. 26.

Letting rock
cutting or
blasting by
tender

27. Where the award provides for rock cutting or blasting, the engineer shall let such work by tender or otherwise by public competition, and upon completion of it shall certify (Form 7) to the clerk of the municipality in which the proceedings were commenced the cost thereof, including his fees and the expenses, and the like proceedings shall be had and the like duties be performed in respect thereof as are provided for by sections 18 and 26, which apply *mutatis mutandis*. R.S.O. 1950, c. 105, s. 27.

Letting
work on
non-com-
pliance with
award

28.—(1) At the expiration of the time limited by the award for the completion of the ditch, the engineer shall inspect the ditch, and, if he finds the ditch or any part thereof not completed in accordance with the award, he may let the work and supply of material to the lowest bidder, who shall furnish security to the corporation, to be approved by the engineer, for the due performance thereof within a time to be fixed by the engineer, but the letting shall not take place,

(a) until notice in writing of the intended letting has been posted up for four clear days in at least three conspicuous places in the neighbourhood of the place at which the work is to be done; and

(b) until after four days from the sending of copies of the notice by registered mail to the last known addresses of the persons interested in the award who do not reside in the municipality or municipalities, as the case may be.

Extension
of time for
compliance

(2) If the engineer is satisfied of the good faith of any person failing in the performance of the award and there is good reason for the non-performance thereof, he may, in his discretion and upon payment of his fees and charges, extend the time for performance.

(3) Any owner in default who, after proceedings are begun to let the same, supplies the material and does the work is liable for the fees and expenses occasioned by his default, and the same form a charge on his land, and, if not paid by him after notice, the council shall pay the same on the certificate of the engineer, and shall cause the amount, with 7 per cent added thereto, to be placed on the collector's roll against the land of the person in default, to be collected in the same manner as municipal taxes.

Liability of person in default of doing work after proceedings begun

(4) The engineer may let the work and supply of material directed by the agreement or award, or any part thereof, a second time or oftener if it becomes necessary in order to secure its performance and completion. R.S.O. 1950, c. 105, s. 28.

Power to re-let

29.—(1) The engineer, within ten days after receipt of notice in writing of the supplying of material and completion of the work let, as mentioned in section 28, shall inspect the same, and, if he finds the material furnished and the work completed, shall so certify in writing (Form 8) to the clerk of the municipality by which he was appointed.

Certificates of engineer upon completion of work let

(2) Where lands situate within two or more municipalities are affected by the certificate of the engineer, the certificate shall be in as many parts as there are municipalities and one of such parts shall be transmitted by the engineer to the clerk of each of them.

Where lands affected in more municipalities than one

(3) Section 26 applies to the amount payable to the contractor and the fees and charges of the engineer as so certified. R.S.O. 1950, c. 105, s. 29.

Costs, fees and charges

30. If an owner during or after the construction of a ditch desires to avail himself thereof for the purpose of draining land other than that contemplated by the original proceedings, he may avail himself of this Act as if he were an owner requiring the construction of a ditch, but no owner shall make use of a ditch after construction unless under an agreement or award pursuant to this Act. R.S.O. 1950, c. 105, s. 30.

Use of ditch for other purposes

31. This Act applies to the deepening, widening, covering, improving or extending of any ditch heretofore or hereafter constructed and to the construction of a tile drain under or adjoining an open ditch as ancillary thereto. R.S.O. 1950, c. 105, s. 31.

Application of Act

Mainten-
ance of
ditches
heretofore
or hereafter
constructed

32. A ditch, whether covered or open, constructed, or any creek or watercourse that has been deepened or widened, under any former Act respecting ditches and watercourses, or constructed, deepened, widened or covered under this Act, shall be maintained by the respective owners in such proportion as is provided in the original or any subsequent agreement or award, and the manner of enforcing the same is as hereinafter provided. R.S.O. 1950, c. 105, s. 32.

Enforcing
mainten-
ance

33.—(1) If an owner whose duty is to maintain any portion of a ditch neglects to maintain it in the manner provided by the agreement or award, any of the owners, parties to the agreement or award, whose land is affected by the ditch, may, in writing, notify the owner making default to have his portion put in repair within thirty days from the receipt of such notice, and, if the repairs are not made and completed within thirty days, the owner giving the notice may notify the engineer in writing to inspect the portion complained of.

Proceed-
ings

(2) The inspection of the engineer and the proceedings for doing and completing the repairs required and enforcing payment of costs, fees and charges shall be as provided in the case of the non-completion of the construction of a ditch, but, if the engineer finds that there is no cause for complaint, he shall so certify, with the amount of his fees and charges, to the owner who complained and also to the clerk of the municipality, and such owner shall pay the fees and charges of the engineer, and, if not forthwith paid, the amount thereof shall be charged and collected in the same manner as is provided for in the case of other certificates of the engineer. R.S.O. 1950, c. 105, s. 33.

Proceed-
ings for
deepening,
etc., by
owner or
person
interested

34. An owner interested in or affected by a ditch heretofore or hereafter constructed which has not been constructed under any of the Acts referred to in section 32 or under this Act or under any Act relating to the construction of drainage work by local assessment, may take proceedings for the deepening, widening, extending, covering or repairing of such ditch in the same manner as for the construction of a ditch under this Act, but the extent of the work, the cost thereof and the assessment therefor shall not exceed the limitations imposed by sections 5 and 6. R.S.O. 1950, c. 105, s. 34.

Recon-
sideration of
agreement
or award

35.—(1) Subject to subsection 2, an owner, party to the agreement or award, whose land is affected by a ditch, whether constructed under this Act or any other Act respecting ditches and watercourses, at any time after the expiration of two years or, in the case of a covered drain, of one year from the

completion thereof, may take proceedings for the reconsideration of the agreement or award under which it was constructed, and the proceedings shall be the same as are hereinbefore provided in the case of the construction of a ditch.

(2) If a ditch, after its construction, proves insufficient for the purposes for which it was constructed so as to cause an overflow of water upon any land along the ditch and damage to the land, any owner, party to the agreement or award, may at any time after the expiration of six months from the completion of the ditch take proceedings for the reconsideration of the agreement or award under which the ditch was constructed for the purpose of remedying the defect in that particular respect. R.S.O. 1950, c. 105, s. 35.

Where ditch
after con-
struction
proves in-
sufficient

36.—(1) Where a parcel of land is charged with maintenance in respect of a ditch constructed pursuant to an agreement or award, and one or more parts of the parcel are sold, the clerk of the municipality in which the parcel is situate shall direct the municipal engineer in writing to apportion the maintenance charged against the parcel among the parts into which the parcel is divided.

Subdivision
of land
charged with
maintenance

(2) The clerk shall send a copy of the direction by registered mail to the owners of the parts into which the parcel is divided.

Notice to
owners

(3) The engineer shall make the apportionment in writing and shall file it in the same manner as an award, and the apportionment is thereupon binding upon the parts into which the parcel is divided and the owners thereof. R.S.O. 1950, c. 105, s. 36.

Apportion-
ment of
maintenance

37. An engineer who wilfully neglects to make any inspection provided for by this Act for thirty days after he has received written notice to inspect is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$10, and every such fine, when recovered, shall be paid over to the treasurer of the municipality in which the inspection should have been made. R.S.O. 1950, c. 105, s. 37.

Penalty for
engineer
failing to
inspect

38. No action, suit or other proceeding lies or shall be taken for a mandamus or other order to enforce or compel the performance of an agreement or award or the completion of a ditch, but the same shall be enforced in the manner provided for in this Act. R.S.O. 1950, c. 105, s. 38.

Actions for
mandamus,
etc., not
to lie

Forms to be
supplied by
municipality

39. It is the duty of the council of every municipality to keep printed copies of all the forms required by this Act and to supply the clerk with proper filing equipment for the safekeeping of all agreements and awards made under this Act. R.S.O. 1950, c. 105, s. 39.

Appeals to
referee

40.—(1) Any owner affected by an award under this Act may appeal from the judgment of the judge to the referee appointed under the drainage laws of Ontario, whose judgment is final and conclusive, but no such appeal lies unless leave is given by the referee upon an application made to him within fifteen days from the date of the judgment.

Application
of
R.S.O. 1960,
c. 252

(2) For the purpose of giving or refusing leave to appeal or hearing and disposing of an appeal after leave given, the referee has the same powers as those conferred upon him by *The Municipal Drainage Act*, and the rules of practice under that Act apply so far as applicable to appeals to the referee under this Act, and, upon leave to appeal being given, proceedings upon the award or upon the judgment of the judge are stayed unless otherwise ordered by the referee. R.S.O. 1950, c. 105, s. 40.

FORM 1

(Section 4 (1))

BY-LAW FOR APPOINTMENT OF ENGINEER

A by-law for the appointment of an engineer under *The Ditches and Watercourses Act*

Finally passed....., 19....

The council of the.....of.....in the
county (or district) of..... enacts as follows:

1. Pursuant to *The Ditches and Watercourses Act*,.....
(name of person) of the.....of.....
in the.....of....., is appointed
engineer for this municipality to carry out the provisions of the Act.

2. The engineer shall be paid the following fees for services rendered
under the Act (or as the case may be):

Clerk

Reeve

[L.S.]

FORM 2

(Section 7 (1))

NOTICE TO OWNERS OF LAND AFFECTED BY PROPOSED DITCH

To.....
Sir,

I am the owner of lot (*describing it*) and as such owner I require a ditch to be constructed under *The Ditches and Watercourses Act* to drain it (*or, if for reconsideration of agreement or award or to deepen, widen, cover or otherwise improve the ditch, state the object*). The following other land will be affected: (*here set out the other parcels of land, lot, concession or street and township or other local municipality, and the name of the owner in each case; also each road and the municipal corporation controlling it*).

I hereby request you, as owner of (*state his land*), to attend at (*state place of meeting*), on.....the.....day of....., 19...., at the hour of.....o'clock in the.....noon, with the object of agreeing on the respective portions of the work and materials to be done and furnished by the several owners interested and the several portions of the ditch to be maintained by them.

Dated this.....day of....., 19....

Yours, etc.,
(*Name of Owner*)

R.S.O. 1950, c. 105, Form 2.

FORM 3

(Section 8)

AGREEMENT BY OWNERS

Whereas it is found necessary that a ditch should be constructed (*or deepened, or widened, or otherwise improved*) under *The Ditches and Watercourses Act*, for the draining of the following land (and roads, *if any*): (*here describe each parcel and give name of owner as in the notice, including the applicant's own land, stating lot, concession or street, and township or other local municipality, and also roads and by whom controlled*).

Therefore we the owners within the meaning of the Act of the said lands (*and if roads and*.....the reeve of the municipality on behalf of the council thereof) do agree each with the other as follows: That a ditch be constructed (*or as the case may be*) and we do hereby estimate the cost thereof at \$....., and the ditch shall be of the following description: (*here give point of commencement, course and termination, its depth, bottom and top width and other particulars as agreed upon, also any bridges, culverts or catch-basins, etc., required*). I,....., owner of (*describe his land*) agree to (*here give portion of work to be done, or material to be supplied*), and to complete the performance thereof on or before the.....day of....., 19....; I,.....owner of, etc. (*as above to the end of the ditch*).

That the ditch when constructed shall be maintained as follows: I,....., owner of (*describe his lands*) agree to maintain the portion of the ditch from (*fix the point of commencement*) to (*fix the point of termination of his portion*); I,....., owner of (*describe his land*) agree to maintain, etc., (*as above to the end of the ditch*).

Dated this.....day of....., 19....

Witness,

.....
(*Signatures of parties*)

R.S.O. 1950, c. 105, Form 3.

FORM 4

(Section 12)

REQUISITION FOR EXAMINATION BY ENGINEER

To.....

Clerk of the.....of.....

Sir,—I am, within the meaning of *The Ditches and Watercourses Act*, the owner of lot (*describing it*) and I require the construction (*or* deepening, widening, covering *or* otherwise improving, *as the case may be*), of a ditch under such Act, and the following land and roads will be affected: (*here describe each parcel to be affected, as in the notice for the meeting to agree, and state the name of the owner thereof*), and such owners having met and failed to agree in regard to the same, I request that the engineer appointed by the municipality be requested to appoint a time and place at which he will attend and examine the premises, hear any evidence of the parties and their witnesses, and make his award.

Dated this.....day of....., 19.....

.....
(Signature of the party or parties)

R.S.O. 1950, c. 105, Form 4.

FORM 5

(Section 13 (3))

NOTICE OF APPOINTMENT FOR EXAMINATION BY ENGINEER

To (*name of owner*)
(*P.O. address*)

Sir,—You are hereby notified that the engineer appointed by the municipality for the purpose of *The Ditches and Watercourses Act* has, in answer to my requisition, fixed the hour of.....o'clock in thenoon of....., the.....day of....., 19....., to attend at (*name the place appointed*), and to examine the premises and site of the ditch required by me to be constructed (*or as the case may be*), under such Act, and you, as the owner of land affected, are required to attend with any witnesses that you desire to have heard, at such time and place.

Dated this.....day of....., 19.....

Yours, etc.,

.....
(Signature of applicant)

R.S.O. 1950, c. 105, Form 5.

FORM 6

(Section 15 (3))

AWARD OF ENGINEER

I,, the engineer appointed by the council of the municipality of the.....of....., in the county (or district) of....., under *The Ditches and Watercourses Act*, having been required so to do by the requisition of....., owner of lot....., (*describe as in requisition*), filed with the clerk of the municipality and representing that he requires certain work to be done under such Act for the draining of such land, and that the following other land (*and roads*) will be affected: (*here set out the other parcels of land or roads affected as in the requisition*), did attend at the time and place named in my notice in answer to the requisition, and having examined the locality (and the parties and their witnesses, *if such be the case*) find that the ditch (*or the deepening, widening, covering or otherwise improving of a ditch*) is required. The location, description and course of the ditch and its point of commencement and termination are as follows:

(*Here describe the ditch as to all above particulars.*)

The works will affect the following land: (*here set forth the other land and the respective owners*). I do, therefore, award and apportion the work and the furnishing of material among the land affected and the owners thereof according to my estimate of their respective interests in the works as follows:

1. (*Name of owner and description of his land*) shall make and complete (*here fix the point of commencement and ending of his portion*) and shall furnish the material (*state what material*), all of which, according to my estimate, will amount in value to \$....., and I fix the time for the completion of such work and providing such material on the..... day of....., 19....., at furthest.

2. (*Name of owner and description of his land and so on as above to the end.*)

I do further award and apportion the maintenance of the ditch as follows:

1. (*Name of owner and description of his land*) shall maintain (*here fix the points of commencement and ending of his portion*).

2. (*Name of owner, etc., as above.*)
(*When rock drilling or blasting is directed, add particulars required by section 16.*)

The fees and the other charges attendant upon and for making this award are (*here give fees and other charges, including clerk's fees in detail*), amounting in all to \$....., which shall be borne and paid as follows: (*state by whom and by what land respectively*).

Dated this.....day of....., 19.....

Witness,

.....
(*Signature of Engineer*)

FORM 7

(Section 27)

CERTIFICATE OF ENGINEER

To.....
Clerk of the.....of.....

I hereby certify that the rock cutting and blasting provided for by my award made under *The Ditches and Watercourses Act*, and dated the.....day of....., 19....., was let to..... for \$....., and he has completed the work and is entitled to be paid that sum, and that my fees and charges (*stating items*) are \$.....

Dated this.....day of....., 19.....

.....
(*Signature of Engineer*)

R.S.O. 1950, c. 105, Form 7.

FORM 8

(Section 29 (1))

CERTIFICATE OF ENGINEER

To.....
Clerk of the.....of.....

I hereby certify that.....has furnished the material and completed the work (*as the case may be*) which under my award made under *The Ditches and Watercourses Act*, and dated the.....day of....., 19....., owner of lot number (*describe his land giving township or otherwise*), was adjudged to perform, and having failed in the performance of the same it was subsequently let by me to..... for \$....., and as he has now completed the performance thereof he is entitled to be paid such amount.

I further certify that my fees and charges for my services rendered necessary by reason of such failure to perform are (*stating items*) \$....., and the amount payable to the contractor and the fees and charges are chargeable on (*describe property to be charged therewith*) under such Act, unless forthwith paid.

Dated this.....day of....., 19.....

Witness,

.....
(*Signature of Engineer*)

R.S.O. 1950, c. 105, Form 8.

CHAPTER 110

The Division Courts Act

1.—(1) In this Act,

Interpre-
tation

- (a) “action” includes a proceeding, suit, matter and cause;
- (b) “county” includes a provisional county and a provisional judicial district;
- (c) “county court” includes district court;
- (d) “debt or money demand summons” means a summons instituting an action for the recovery of a debt or money demand;
- (e) “defendant” includes primary debtor;
- (f) “division” means the territory in and for which a division court is prescribed;
- (g) “Inspector” means the Inspector of Legal Offices;
- (h) “judge” means the judge or a junior judge of the county court of the county in which is situate the division for which a division court is prescribed;
- (i) “judgment creditor” includes a creditor who has obtained judgment against a garnishee;
- (j) “judgment debtor” includes a garnishee against whom judgment has been recovered;
- (k) “plaintiff” includes a primary creditor;
- (l) “prescribed form” means the form prescribed in the rules;
- (m) “rules” means the rules and regulations made under this Act. R.S.O. 1950, c. 106, s. 1 (1), *revised*.

(2) Where in this Act any power or authority is conferred or any duty is imposed upon the judge of a county court, it shall be exercised or performed by him and not by a junior judge. R.S.O. 1950, c. 106, s. 1 (2).

Exclusive
powers of
county judge

Territorial
application
of Part I;

2.—(1) Part I, except where otherwise therein provided, applies to every county and provisional judicial district.

Part II

(2) Part II is applicable only to provisional judicial districts. R.S.O. 1950, c. 106, s. 2.

PART I

APPLICABLE TO COUNTIES AND DISTRICTS

COURTS

Courts
continued

3. Subject to this Act and the rules, the division courts existing at the time this Act takes effect shall continue. R.S.O. 1950, c. 106, s. 3.

Designation
of court

4. The court in each division shall be called “The First (*or as the case may be*) Division Court of the County of”. R.S.O. 1950, c. 106, s. 4 (1).

Each court
to have
a seal

5. Every division court shall have a seal, with which all process shall be sealed or stamped, and that shall be paid for out of the Consolidated Revenue Fund. R.S.O. 1950, c. 106, s. 5.

To be courts
of record

6. Every division court is a court of record. R.S.O. 1950, c. 106, s. 6.

Courts in
cities

7. In a city in which two division courts are prescribed, all or any of the sittings of both such courts may be held in either of such divisions, and the clerks of both courts may, with the approval of the Lieutenant Governor in Council, keep their offices in the same division. R.S.O. 1950, c. 106, s. 7, *revised*.

Accom-
modation

8.—(1) The local municipality in which a division court is held shall provide a court room, not in or connected with an hotel, and other necessary accommodation for holding the court.

Where no
proper court
room, etc.

(2) If a proper court room and other necessary accommodation are not furnished by the local municipality, the judge may hold the court in any suitable place in the division or in any other division of the county in which suitable accommodation is provided, and the owner, lessee or tenant of the building

in which the court is held is entitled to receive from the local municipality whose duty it was to provide proper accommodation for the court the sum of \$10 or such larger amount not exceeding \$20 as the Inspector approves for every day on which the court is held in his building.

(3) Where a local municipality, not being a city or town, furnishes a court room and other necessary accommodation, or pays for the use of a building, the local municipality is entitled to recover from any other local municipality, the whole or part of which is within the division for which the court is held, such reasonable share of the cost as shall be ordered by the judge of the court to be paid and contributed by the last-mentioned municipality. R.S.O. 1950, c. 106, s. 8. Judge to apportion cost of court room

(4) The Municipality of Metropolitan Toronto shall be deemed to be a local municipality for the purpose of this section and no local municipality in The Municipality of Metropolitan Toronto is under a duty to provide court rooms and other accommodation under this section. 1957, c. 29, s. 1. Metropolitan Toronto

9. The sittings of a division court in a county town may be held in the court house. R.S.O. 1950, c. 106, s. 9. Use of court house

10. Actions and judgments in a division court, the number or limits of which are changed, continue to be actions and judgments therein, but the judge may transfer any such action or judgment to any other division court, and, when so transferred, it is an action or judgment of such other court. R.S.O. 1950, c. 106, s. 10. Change in number or limits of court

11. The clerk of the peace shall record in a book to be kept by him the divisions as prescribed from time to time, and the times and places of holding the division courts, and the alterations made therein, and he shall transmit to the Inspector a copy of the record. R.S.O. 1950, c. 106, s. 11, *revised*. Clerks of the peace to record time and place for holding courts

JUDGES

12. Every division court shall be presided over by a judge. R.S.O. 1950, c. 106, s. 12. Who to preside

13.—(1) The judge may appoint a barrister to act as his deputy, and the barrister so appointed has all the powers and privileges vested in and is subject to all the duties imposed by law upon the judge. In case of illness or absence of judge

(2) The judge shall forthwith send to the Provincial Secretary notice of the appointment, specifying the name and Provincial Secretary to be notified

residence of the barrister so appointed and the reason for his appointment.

Duration

(3) No such appointment shall be continued for more than two months, and, in case the Lieutenant Governor in Council disapproves of the appointment, he may annul it. R.S.O. 1950, c. 106, s. 13.

Adjournment of court if judges does not arrive

14. If the judge does not open court on the day appointed for that purpose, the clerk shall, after 4 o'clock in the afternoon, adjourn the court to an hour on the following day, to be named by him, and so from day to day, adjourning over any Sunday or holiday, until the judge arrives to open court, or until other directions are received from him. R.S.O. 1950, c. 106, s. 14.

Judge to supervise

15.—(1) It is the duty of the judge to see that the officers of his courts perform their duties and to examine into complaints against them.

Suspensions

(2) The judge may suspend a clerk or bailiff for any cause and, in the case of suspension, shall forthwith report it and the reason therefor to the Inspector, and, if a vacancy occurs in the office of clerk or bailiff, the judge shall forthwith notify the Inspector. R.S.O. 1950, c. 106, s. 15.

Action by or against judge

16. An action by or against a judge may be brought in any division court of a county adjoining that in which he resides. R.S.O. 1950, c. 106, s. 16.

Power to amend proceedings

17. The judge may at any time, and on such terms as to costs and otherwise as to him seem just, amend any defect or error in any proceeding, and all such amendments may be made as are necessary for the advancement of justice, determining the real question raised by or depending on the proceedings and best calculated to secure the giving of judgment according to the very right and justice of the case. R.S.O. 1950, c. 106, s. 17.

CLERKS AND BAILIFFS

Every court to have clerk and bailiff

18. There shall be a clerk and one or more bailiffs for every division court, who shall be appointed by the Lieutenant Governor and hold office during pleasure. R.S.O. 1950, c. 106, s. 18.

Office hours

19. Except on Saturdays and holidays when they shall be closed, every division court office shall be kept open from 9.30 a.m. until 4.30 p.m. 1952, c. 23, s. 1.

20.—(1) The clerk shall issue all summonses and shall make copies thereof with the notices thereon, according to the prescribed form, and, except as otherwise provided by this Act, shall deliver the same to the bailiff for service. R.S.O. 1950, c. 106, s. 19.

Clerk to
issue
summonses,
etc.

(2) The clerk shall cause a note of all summonses, notices, orders, judgments, warrants, executions and returns thereto to be entered in a book to be kept in his office, and shall sign his name on every page of the book, and the signed entries, or a copy thereof certified as a true copy by the clerk, are sufficient evidence of such entries and of the proceedings referred to therein without further proof. R.S.O. 1950, c. 106, s. 20.

Clerk to
keep a
record of
process

21.—(1) A procedure book and a foreign procedure book shall be kept by the clerk.

Books to
be kept
by clerks

(2) The cost of all books and forms required by this Act to be kept by the clerk and bailiff and of necessary stationery and stationery supplies shall be repaid to him by the treasurer of the county upon the certificate of the Inspector. R.S.O. 1950, c. 106, s. 21.

Cost of
division
court books,
forms, etc.

(3) Notwithstanding subsection 2, the cost of the books, forms, stationery and stationery supplies with respect to the division courts having jurisdiction in The Municipality of Metropolitan Toronto shall be repaid to the respective clerks by the treasurer of the metropolitan municipality upon the certificate of the Inspector. 1954, c. 24, s. 1.

Special
provision re
Metropolitan
Toronto

22. The clerk, when required, shall forward the summons and copies for service to the clerk of any other court who shall receive and deliver them to the bailiff for service, and when returned shall send the summons to the clerk from whom it was received, and shall enter the proceedings in the foreign procedure book. R.S.O. 1950, c. 106, s. 22.

Forwarding
summonses
for service
in other
divisions

23. The clerk shall prepare an affidavit of service of every summons issued out of his court, or sent to him for service, stating how it was served, the day of service and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or endorsed on the summons and shall be sworn to by the bailiff, but the judge may require the bailiff to be sworn in his presence and to answer such questions as are put to him touching any service or mileage. R.S.O. 1950, c. 106, s. 23.

Clerk to
prepare
affidavits of
service, etc.

Clerks to issue executions, tax costs and keep account of fines, etc.

24. The clerk shall issue all warrants and executions, and shall tax costs, subject to revision by the judge, and shall keep an account of all fines payable or paid into court, and of all suitors' money paid into and out of court, and shall enter an account of all such fines and money in a book to be kept by him for that purpose, which shall be open to all persons desirous of searching it, and it shall at all times be accessible to the judge and the Inspector. R.S.O. 1950, c. 106, s. 24.

Fines and penalties to be paid to clerk of peace

25. The money arising from any penalty, forfeiture or fine imposed by or under this Act, not directed to be otherwise applied, shall be paid to the clerk and shall be paid by him to the clerk of the peace, to be paid over to the Treasurer of Ontario. R.S.O. 1950, c. 106, s. 25.

Clerks to deliver to clerk of peace a verified account of fines,

26. The clerk shall, at least once in every three months or oftener if required by the clerk of the peace, deliver to him a full account in writing verified by affidavit of all fines levied, accounting for and deducting the reasonable expenses of levying them and any allowance that the judge may make out of such fines in pursuance of the power hereinafter given. R.S.O. 1950, c. 106, s. 26.

and furnish judge with a verified account of moneys paid in and out of court

27. The clerk, when required by the judge, shall furnish him with a full account in writing, verified by affidavit, of the money paid into or out of the court under orders, judgments or process of the court, and of the balance in court belonging to suitors or others. R.S.O. 1950, c. 106, s. 27.

Clerk to remit moneys

28. The clerk shall promptly remit all moneys received by him in payment of a judgment to the person entitled thereto and shall in no case retain any such moneys for a period of more than three months. R.S.O. 1950, c. 106, s. 20.

Clerk annually to make list of suitors' money in court for six years

29.—(1) The clerk shall annually, in the month of January, make out a correct statement of all sums of money belonging to suitors or others that have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the persons for whom or on whose account such sums were so paid.

Posting and distributing list

(2) The clerk shall keep one copy of the statement posted up in his office and another copy in some conspicuous part of the court house or the place where the court is held, and copies shall also be sent to the Treasurer of Ontario and the Inspector.

Disposition of un-claimed moneys

(3) All such sums shall form part of the Consolidated Revenue Fund and shall be forthwith paid over by the clerk or officer holding them to the Treasurer of Ontario, and, except

by leave of the Lieutenant Governor in Council, no person is entitled to claim any such sum that has remained unclaimed for six years.

(4) The time during which the person entitled to claim any such sum was an infant, or of unsound mind, or out of Ontario, shall not be taken into account in computing the six years. Claims of persons under disability
R.S.O. 1950, c. 106, s. 29.

30. The bailiff shall promptly serve and execute all summonses, orders, warrants and executions delivered to him by the clerk, and shall so soon as served or executed return them to the clerk, but, subject to section 64, he shall not be required to travel beyond the limits of his division, or be allowed to charge mileage for any distance beyond the limits of the county in which is situated the division for the court of which he is bailiff. Bailiffs to serve process
R.S.O. 1950, c. 106, s. 30.

31.—(1) Where the gross fees and emoluments earned by a clerk or bailiff are less than \$1,000 a year, the local municipality in which the division court is held shall pay to the clerk and bailiff respectively the sum of \$4 for attending each sitting of the court. Fees for sittings

(2) Where under subsection 1 in any division the clerk and bailiff are paid for attending court sittings by the local municipality in which the court is held, such local municipality is entitled to recover from any other municipality for which the court is held such reasonable share of the amount so paid to the clerk and bailiff as is ordered by the judge. Apportionment
R.S.O. 1950, c. 106, s. 31.

32.—(1) The fees upon every proceeding shall be paid in the first instance, and before it is taken, by the party on whose behalf it is taken. By whom fees to be paid in first instance

(2) If the fees are not so paid, payment may, by summary order of the judge, be enforced by execution in like manner as a judgment of the court. How enforced
R.S.O. 1950, c. 106, s. 32.

33. At the time of the issue of any process or execution the bailiff's fees thereon shall be paid to the clerk and shall be paid over to the bailiff upon the return of the execution and not before, but, if the bailiff does not become entitled to any part or becomes entitled to a part only of such fees, the whole or the surplus, as the case may be, shall be repaid by the clerk to the person from whom the fees were received. Bailiff's fees to be paid to clerk when execution issues
R.S.O. 1950, c. 106, s. 33.

Bailiff
to forfeit
fees if he
neglects
to return
process

34. If the bailiff neglects to return any process or execution within the time required by law, he shall for such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the clerk who shall keep a special account thereof and account for and pay over the fees to the clerk of the peace, to be paid to the Treasurer of Ontario, to form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 106, s. 34.

Clerk or
bailiff not
to accept
extra fees

35. A clerk or bailiff shall not, directly or indirectly, take or receive any commission, charge, fee or reward for or in connection with the collection of any debt or claim that has been or may or can be sued in the court for which he is clerk or bailiff, except such fees as are provided by a tariff of fees under this Act. R.S.O. 1950, c. 106, s. 35.

Books, etc.,
to be pro-
duced for
inspection

36. Every clerk and bailiff shall, as often as required by the Inspector, produce at the clerk's office, for examination and inspection, all books and documents required to be kept by him, and shall report to the Inspector concerning such matters as the Inspector requires. R.S.O. 1950, c. 106, s. 36.

Clerks' and
bailiffs'
returns to
Inspector

37. Every clerk and bailiff shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, and, on or before the 31st day of January in every year, shall make a return under oath to the Inspector showing the aggregate amount of fees, charges and emoluments that he became entitled to receive during the year that ended on the 31st day of December next preceding. R.S.O. 1950, c. 106, s. 37.

Clerk to
make
returns to
Lieutenant
Governor

38. Every clerk, on or before the 31st day of January in each year, shall make a return, in such form and manner as the Lieutenant Governor in Council prescribes, of the business of his office for the year that ended on the 31st day of December next preceding. R.S.O. 1950, c. 106, s. 38.

Annual
return of
commitment
of judgment
debtors

39. Every clerk, on or before the 31st day of January in each year, shall make to the Inspector a return showing the number of judgment debtors who, during the twelve months ending the 31st day of December next preceding, were ordered to be committed under each of the heads mentioned in section 132. R.S.O. 1950, c. 106, s. 39.

Security
by clerks
and bailiffs

40.—(1) Every clerk and bailiff shall furnish such security as is required by the Lieutenant Governor in Council for the due performance of the duties of his office, and, subject to the rules, the provisions of *The Public Officers Act* relating to the giving of security apply to such security.

(2) The security shall enure to the benefit of any person suffering damage by the default, breach of duty or misconduct of the clerk or bailiff. R.S.O. 1950, c. 106, s. 40.

Security to enure to benefit of person injured

41.—(1) In an action against a surety of a clerk or bailiff, the entries in the books kept by such clerk or bailiff are *prima facie* evidence against the surety.

Entries of clerk or bailiff evidence against surety

(2) For the purpose of this section, the words “clerk or bailiff” include a person who has ceased to be a clerk or a bailiff, as the case may be. R.S.O. 1950, c. 106, s. 41.

Interpretation of “clerk or bailiff”

42. A clerk shall not practise as a barrister or solicitor. R.S.O. 1950, c. 106, s. 42.

Clerk not to practise as barrister, etc.

43.—(1) A clerk or bailiff shall not sue or be sued in the court of which he is clerk or bailiff.

Actions by and against clerks and bailiffs

(2) A clerk or bailiff shall sue or be sued separately or jointly with another person in the court of any next adjoining division whether in the same or another county.

Idem

(3) Nothing in this section prevents proceedings from being continued in the court in which the action was brought, if they were commenced before the appointment of such clerk or bailiff. R.S.O. 1950, c. 106, s. 43.

Commenced before appointment

44. A clerk, bailiff or other officer of the court shall not, directly or indirectly, purchase any property at a sale made by a bailiff under legal process, and every such purchase is void. R.S.O. 1950, c. 106, s. 44.

Bailiff and other officers not to purchase goods seized

45. If a clerk, bailiff or other officer of a division court is guilty of extortion, he is, upon proof thereof before the court, forever disqualified from holding any office of profit or emolument in a division court, and is also liable in damages to the party aggrieved. R.S.O. 1950, c. 106, s. 45.

Extortion

46.—(1) Upon a complaint in writing that a bailiff or officer, acting under colour or pretence of process of his court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the judge may, at a sittings of the court, inquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary persons, and make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied or received, and for the payment of such damages and costs to the person aggrieved, as he thinks just.

Misconduct of court officers

Enforcing
order for
payment
by bailiff

(2) In default of payment of the money ordered to be paid by the bailiff or officer within the time mentioned in the order for the payment thereof, the judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress or summarily in the first instance, or where payment is not made forthwith, if so ordered, may commit the offender to the jail of the county for a period not exceeding three months, unless the money and costs are sooner paid. R.S.O. 1950, c. 106, s. 46.

Bailiff
neglecting
duty in
relation to
execution

47. If a bailiff, by neglect, connivance or omission, loses the opportunity of levying an execution or taking property under an attachment, or unduly delays to levy or attach, the judge, upon complaint of the party aggrieved, and upon proof of the fact alleged, may order the bailiff to pay such damages as the party aggrieved appears to have sustained, not exceeding the sum for which the execution or attachment issued, and upon demand being made therefor, and on his refusal to satisfy the damages, payment may be enforced by such means as are provided for enforcing judgments. R.S.O. 1950, c. 106, s. 47.

Resignation,
removal or
death of
clerk

48. All accounts, moneys, books, papers, documents and other things in the possession of a clerk or bailiff, by virtue of or appertaining to his office, shall, upon his death, resignation or removal, immediately become the property of the clerk of the peace, who shall hold them until the appointment of another clerk or bailiff to whom he shall deliver them when security has been furnished on behalf of such clerk or bailiff. R.S.O. 1950, c. 106, s. 48.

Leave of
absence

49. Leave of absence for a period not exceeding two months may be granted by the Inspector to a clerk or bailiff. R.S.O. 1950, c. 106, s. 49.

Clerk of
peace to
act as
clerk when
office of
clerk is
vacant

50. Subject to section 51, upon the death, resignation, suspension or removal of the clerk, the clerk of the peace shall be the clerk until a successor is appointed or the suspension is removed, and the clerk of the peace shall be paid by the county for his services in taking over the office the sum of \$5 together with actual disbursements. R.S.O. 1950, c. 106, s. 50.

Deputy
during
absence of
clerk or
bailiff

51.—(1) With the approval of the Inspector, when prevented from acting because of absence or illness or any cause other than suspension, the clerk or bailiff may appoint a deputy to act for him, and the clerk or bailiff, as the case may

be, is jointly and severally responsible for all the acts and omissions of the deputy so appointed.

(2) With the approval of the Inspector, where there is no ^{Appointment} clerk or bailiff or the clerk or bailiff is under suspension, the ^{of clerk,} judge may appoint a clerk or bailiff, as the case may be, ^{bailiff pro} *pro tempore*.

(3) Where an appointment is made under subsection 1 or ^{Powers,} 2, the person so appointed has, during the period of his ^{privileges,} appointment, all the powers and privileges and is subject to the duties of the clerk or bailiff, as the case may be.

(4) Where there is no bailiff or the bailiff is for any reason ^{Clerk acting} unable to act, the clerk may act in his place. R.S.O. 1950, ^{as bailiff} c. 106, s. 51.

52.—(1) In the event of the death, resignation, suspension ^{Continua-} or removal of a bailiff, after action taken by him under an ^{tion of} execution or attachment, the proceedings may be continued ^{proceedings} by his successor.

(2) The benefit of all securities given to the bailiff enures ^{Securities} to his successor in office. R.S.O. 1950, c. 106, s. 52. ^{given to} ^{the bailiff}

JURISDICTION AS TO CAUSES OF ACTION AND QUANTUM

53. A division court does not have jurisdiction in, ^{Cases in} ^{which court} ^{has no} ^{jurisdiction}

- (a) an action for the recovery of land, or an action in which the right or title to a corporeal or incorporeal hereditament, or any toll, custom or franchise, comes in question;
- (b) an action in which the validity of a devise, bequest or limitation under a will or settlement is disputed;
- (c) an action for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage;
- (d) an action against a justice of the peace for anything done by him in the execution of his office, if he objects thereto;
- (e) an action upon a judgment or order of the Supreme Court or a county court where execution may issue upon or in respect thereof. R.S.O. 1950, c. 106, s. 53.

Cases in
which
court has
jurisdiction

54.—(1) Except as otherwise provided in this Act, a division court has jurisdiction in,

- (a) a personal action where the amount claimed does not exceed \$200;
- (b) a personal action where all the parties thereto consent in writing and the amount claimed does not exceed \$400;
- (c) an action on a claim or demand of debt, account, or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$200, provided that, in the case of an unsettled account, the whole account does not exceed \$1,000;
- (d) an action for the recovery of a debt or money demand, where the amount claimed, exclusive of interest, whether the interest is payable by contract or as damages, does not exceed \$400 and the amount claimed is,
 - (i) ascertained by the signature of the defendant or of the person whom as executor or administrator he represents, or
 - (ii) the balance of an amount not exceeding \$400 which amount is so ascertained, or
 - (iii) the balance of an amount so ascertained that did not exceed \$800, and the plaintiff abandons the excess over \$400,

but an amount shall not be deemed to be so ascertained if it is necessary for the plaintiff to give other and extrinsic evidence beyond the production of a document and proof of the signature to it, and the jurisdiction conferred by this clause applies to claims and proceedings against an absconding debtor;

- (e) an action or contestation for the determination of the right of a creditor to rank upon an insolvent estate where the claim of the creditor does not exceed \$200.

Combining
causes of
action

(2) Claims combining causes of action may be joined in one action where,

- (a) the amount of the claim in respect of each cause of action does not exceed the limit prescribed by subsection 1 for such cause of action; and

(b) the total amount of the combined claims does not exceed \$400.

(3) The findings of the court upon claims so joined shall be separate. Separate findings on combined claims

(4) Where the value of property distrained, taken or detained does not exceed \$200 and the title to the land is not brought into question, an action of replevin may be brought in the court for the division in which the defendant or one of the defendants resides or carries on business or where the property was distrained, taken or detained, and *The Replevin Act* applies *mutatis mutandis* to such action. Replevin R.S.O. 1960, c. 352

(5) A division court also has jurisdiction in actions between teachers and school boards as provided by *The Schools Administration Act*. R.S.O. 1950, c. 106, s. 54. Actions between teachers and school boards R.S.O. 1960, c. 361

55. Except in actions in which a jury is demanded as hereinafter provided, the judge shall hear and determine in a summary way all questions of law and fact and may make such order or judgment as appears to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R.S.O. 1950, c. 106, s. 55. Summary hearings

56. Upon a contract for the payment of a sum certain in labour or in any kind of goods or commodities or in any other manner than in money, the judge may give judgment for the amount in money as if the contract had been so expressed, if the goods and commodities have not been delivered or the labour or other thing performed in accordance with the contract. R.S.O. 1950, c. 106, s. 56. Judge may order payment in money, although contract not for payment in money

57.—(1) A division court in actions otherwise within its jurisdiction has power to grant relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, in as full and ample a manner as might be done in the like case by the Supreme Court. Powers of court

(2) Nothing in this section confers jurisdiction to grant an injunction. R.S.O. 1950, c. 106, s. 57. No injunctions

58. A minor may sue for any sum not exceeding \$100 due to him for wages, or for work or services, as if he were of full age. R.S.O. 1950, c. 106, s. 58. Minors may sue for wages

Causes of
action not
to be
divided

59. A cause of action shall not be divided into two or more actions for the purpose of bringing it within the jurisdiction of a division court. R.S.O. 1950, c. 106, s. 59.

Judgment
to be full
discharge

60. A judgment in an action brought for the balance of an account, or for a part of a claim, where the residue is abandoned to bring the claim within the jurisdiction of a division court, is a full discharge of all demands in respect of the account for the balance of which such action was brought or for the whole claim, as the case may be. R.S.O. 1950, c. 106, s. 60.

Transfer of
actions to
Supreme
Court

61.—(1) Where it appears at any stage of an action otherwise of the proper competence of a division court that the court has not cognizance thereof on account of the title to land or a corporeal or incorporeal hereditament, or a toll, custom or franchise being in question, or the validity of a devise, bequest or limitation under a will or settlement being disputed, or the amount involved being in excess of the jurisdiction of the court, the action shall not on that account be dismissed, but a judge of the Supreme Court, or the judge of the court in which the action is pending, may order the action to be transferred to the Supreme Court or to a county court where the county court would have jurisdiction, upon such terms as to the payment of costs or otherwise as he thinks fit, and thereafter the action shall proceed in the Supreme Court or the county court as if originally commenced therein and as if the defendant had entered an appearance, but the judge may give such directions as to procedure as are deemed proper.

Appeal
from
order

(2) Where the order is made by a judge of a division court, an appeal lies therefrom to a judge of the Supreme Court in chambers who may rescind the order or vary the terms thereof. R.S.O. 1950, c. 106, s. 61.

Action may
be removed
into
Supreme
Court

62. If it appears to a judge of the Supreme Court that an action is a fit one to be tried in the Supreme Court, he may order that it be transferred to the Supreme Court upon such terms as to payment of costs or otherwise as he thinks fit. R.S.O. 1950, c. 106, s. 62.

Counter-
claim
involving
matters
beyond
jurisdiction

63.—(1) Where a counterclaim is disputed and involves matters beyond the jurisdiction of the division court, the judge may try the claim and may, if he sees fit, stay the issue of execution upon the judgment until the counterclaim has been disposed of, upon such terms as to security and otherwise as he sees fit to impose.

(2) If the counterclaim or any part thereof is admitted, the judge may direct the amount admitted to be set off *pro tanto* without prejudice to any proceedings to recover the balance. R.S.O. 1950, c. 106, s. 63.

Set-off
of counter-
claim when
admitted

TERRITORIAL JURISDICTION AND PLACE OF TRIAL

64.—(1) An action in a division court shall be entered and tried,

In what
court
actions
to be
entered
and tried

- (a) in the court for the division in which the cause of action arose; or
- (b) in the court for the division in which the defendant or any one of several defendants resides or carries on business; or
- (c) in the court whose place of sitting is nearest to the residence of the defendant or any one of several defendants.

(2) In addition to the courts mentioned in subsection 1, an action of a woodsman for wages may be entered and tried in the court for the division in which his contract for hire was made, regardless of any stipulation in the contract or elsewhere to the contrary, and, in this subsection, “woodsman” means a person performing labour or services in connection with logs or timber, and includes a cook, blacksmith and every type of artisan usually employed in connection with logging or timbering operations.

Woodsman's
wages

(3) In any case under clause *c* of subsection 1 or subsection 2, a summons may be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor and all other process and proceedings to enforce payment of the judgment may be issued to the bailiff of such court and be executed and enforced by him in the county in which the debtor resides as well as in the county in which the judgment was recovered. 1957, c. 29, s. 2.

Service of
process in
certain
cases

65. If a person desires to bring an action in the court of a division other than as in section 64 mentioned, the judge may by order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of the defendants resides, whether such defendant resides in the county of the judge granting the order or in an adjoining county. R.S.O. 1950, c. 106, s. 65.

When
actions may
be brought
in other than
the regular
divisions

Effect of
agreement
as to place
of trial

66. No proviso, condition, stipulation, agreement or statement that provides for the place of trial of an action, matter or proceeding is of any force or effect where the defendant, within the time limited for disputing the plaintiff's claim or within such further time as the judge allows, files with the clerk of the court in which the action was commenced a notice disputing the jurisdiction of the court and an affidavit of the defendant or his agent stating that in his belief there is a good defence to the action on the merits, the division wherein the cause of action arose, or partly arose, and the division where the defendant resides. R.S.O. 1950, c. 106, s. 66.

Actions when
defendant
resides out
of Ontario

67.—(1) Where a claim is within the proper competence of a division court, the action may be brought notwithstanding that the residence of the defendant is, at the time of bringing the action, out of Ontario, and the action may be brought in the court of the division in which the cause of action arose or partly arose, but the court may refuse to allow the action to proceed if it appears that the action is one that ought to be tried elsewhere.

Service of
summons
on non-
residents

(2) The service of the summons may be made by a bailiff of the court out of which it issued or by any person who is, either before or after the service, approved by the judge or by the clerk, but the summons shall be served at least fifteen days before the return day thereof.

Allowance
for service
out of
Ontario

(3) Where service of the summons has been effected out of Ontario, the judge may allow, as costs in the action, a sum towards the expenses incurred in effecting service, not exceeding in the whole \$5. R.S.O. 1950, c. 106, s. 67.

Where
defendant a
corporation
with head
office out
of Ontario

68. Where the defendant is a corporation not having its head office in Ontario and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. R.S.O. 1950, c. 106, s. 68.

Place of
trial where
amount sued
for exceeds
\$100

69.—(1) Where the debt or money payable exceeds \$100 and is made payable by the contract of the parties at a place named therein, the action may be brought thereon in the court of the division in which the place of payment is situate, subject to the action being transferred to the court of any division in which but for this section it might have been brought.

Changing
place of
trial in
such cases

(2) The judge of the division court in which the action is brought may, upon application of the defendant made within the time limited for disputing the plaintiff's claim, make an order transferring the action accordingly.

(3) The application shall be supported by an affidavit of the applicant or his agent stating that the applicant intends to defend the action, that there is a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, that the witnesses for the defence, or some of them, reside in the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay, and the dates of the next two sittings of the court to which it is sought to have the action transferred shall also be shown.

Affidavit in support of application

(4) The order shall direct at what sittings of the court the action is to be tried, subject to all rights of postponement as in other cases, and shall be attached by the clerk to the summons and other proceedings in the action, and he shall forthwith transmit them to the clerk of the court to which the action is transferred, and enter a minute thereof in his procedure book.

Order and papers to be transmitted to clerk

(5) Upon receipt of the order and other papers by the clerk of such last-mentioned court, he shall enter the action and proceedings in his procedure book.

To be entered in procedure book

(6) All the papers and proceedings in the action thereafter shall be entitled and carried on as though the action had originally been entered in the last-mentioned court.

Style

(7) The defendant shall forthwith serve a copy of the order upon the plaintiff or his agent. R.S.O. 1950, c. 106, s. 69.

Service of order

70.—(1) If it appears that an action should have been entered in some other court of the same or some other county, it shall not fail for want of jurisdiction, but, on such terms as the judge orders all the papers and proceedings in the action may be transferred to any court having jurisdiction in the premises, and shall become proceedings thereof as if the action had been entered therein, and shall be continued as if it had originally been entered in the last-mentioned court.

When action entered in wrong court

(2) The clerk of the court to which the proceedings have been transferred shall place the action on the list for trial at the next sittings of his court that commence six clear days or more after he receives the papers, and he shall forthwith after receiving the papers notify the parties or their agents by registered mail of the date, hour and place of the sittings, and the clerk issuing the summons shall certify in detail to the court to which the action is transferred all the costs incurred up to the date of the transfer. R.S.O. 1950, c. 106, s. 70.

Clerk to place on list and notify parties

PROCEDURE BEFORE TRIAL

- Entry of claim** **71.—**(1) The plaintiff shall enter his claim with the clerk and shall at the time of the entry leave with the clerk a copy of the claim for each defendant.
- Particulars** (2) The claim shall set out the particulars thereof with reasonable certainty and detail.
- Summons** (3) Each claim shall be numbered by the clerk according to the order in which it is entered, and a summons shall be issued by the clerk, bearing the number of the claim on the margin thereof. R.S.O. 1950, c. 106, s. 71.
- Promissory note, etc., to be filed** **72.** In an action on a promissory note, bill of exchange or cheque, the note, bill or cheque shall be filed with the clerk before judgment, unless otherwise ordered or unless it be shown that the note, bill or cheque is lost or that it cannot for some other reason be produced. R.S.O. 1950, c. 106, s. 72.
- What to accompany summons** **73.** The clerk shall annex the plaintiff's claim to the summons and shall deliver copies of the summons and claim to the proper person to serve it. R.S.O. 1950, c. 106, s. 73.
- Method of service of claim** **74.** Where the amount of the claim is \$60 or more, the service shall be personal and, where the amount is less than \$60, the service shall be on the defendant, his wife or servant, or on a grown-up person in the defendant's usual place of residence or business. 1957, c. 29, s. 3.
- Substitutional service** **75.** The judge may make an order for substitutional service or for service by advertisement or otherwise. R.S.O. 1950, c. 106, s. 75.
- Service on corporations** **76.—**(1) Every summons or process, whether before or after trial, against a corporation, firm or individual whose chief place of business is not in the division in which the summons or process is issued, and all subsequent papers and proceedings in the action, may be served on the agent of the corporation, firm or individual whose officer or place of business as such agent is either in the division from the court of which the summons or process issued, or is nearest thereto. 2
- Interpretation** (2) For the purpose of this section, "agent" includes,
- (a) in the case of a railway company, a station-master having charge of a station of the company;
 - (b) in the case of a telegraph company, a person having charge of a telegraph office of the company;

- (c) in the case of an express company, a person having charge of an express office of the company;
- (d) in the case of any other corporation, firm or individual, a manager or other principal officer in charge of the office or place of business. R.S.O. 1950, c. 106, s. 76.

77. Where a party to an action intends to dispute the claim made against him, he shall leave with the clerk within ten days of the service upon him of the summons or other process constituting a notice of the claim a notice of dispute setting out his reasons for disputing the claim together with sufficient copies thereof, and the clerk shall forthwith send a copy thereof to each of the plaintiffs or other parties to the action. R.S.O. 1950, c. 106, s. 77.

78. Subject to subsection 5 of section 88, where a party to an action intends to contest the territorial jurisdiction of the court, he shall include in his notice of dispute a statement that he disputes the jurisdiction of the court, and in default of such notice the jurisdiction shall be considered as established and determined and all proceedings may thereafter be taken as fully and effectually as if the action had been properly entered or taken in such court. R.S.O. 1950, c. 106, s. 78; 1957, c. 29, s. 4.

79. At any time before judgment is entered, although the time for giving the notice disputing the plaintiff's claim has expired, the judge, on sufficient grounds shown and on such terms as to him seem just, may give leave to the defendant to dispute the plaintiff's claim, in which case the notice disputing the claim shall immediately be left with the clerk and also delivered to the plaintiff or sent to him by registered mail. R.S.O. 1950, c. 106, s. 79.

80. A defendant who has filed a notice disputing the claim may, by notice to the clerk at least six days before the sittings at which the action may be tried, consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by registered mail, and thereupon the plaintiff is entitled to have judgment entered by the clerk as by default for such amount and the costs necessarily incurred. R.S.O. 1950, c. 106, s. 80.

81.—(1) Where the defendant desires to avail himself of the laws of set-off, or of *The Limitations Act*, or of a defence under any other statute, he shall give notice thereof to the plaintiff.

Notice of
set-off
or other
statutory
defence
R.S.O. 1960,
c. 214

Evidence
of set-off

(2) Except by leave of the judge, no evidence of set-off shall be given by the defendant except such as is contained in the particulars delivered.

Where
set-off
exceeds
amount
due to
plaintiff

(3) If the set-off proved exceeds the amount found to be due to the plaintiff, judgment shall be entered for the defendant for the excess, if the excess is an amount within the jurisdiction of the court, but, if the excess is an amount beyond the jurisdiction of the court, the judge may order that an amount of the set-off equal to the amount found to be due to the plaintiff be satisfied by the claim, but the adjudication is not a bar to the recovery by the defendant in a subsequent action for the residue of the set-off. R.S.O. 1950, c. 106, s. 81.

Plea of
tender with
payment of
money
into court

82.—(1) If the defendant desires to plead a tender before action of a sum of money in full satisfaction of the plaintiff's claim, he may do so on filing his notice of dispute and at the same time paying into court the amount mentioned in the notice, and notice of the dispute and payment shall be forthwith sent by the clerk to the plaintiff by registered mail or delivered at his usual place of residence or business.

Notice by
plaintiff

(2) The plaintiff shall be deemed to have accepted the money in full satisfaction of his claim, and all proceedings in the action shall be stayed unless within five days after the receipt of notice of the payment he signifies in writing to the clerk his intention to proceed for his claim notwithstanding such defence, in which case the action shall proceed.

If
plaintiff
does not
give notice

(3) If the plaintiff does not give the notice mentioned in subsection 2, the money shall be paid to him less \$1 to be paid over to the defendant for his trouble.

Giving of
notice
after time
limited

(4) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him seem just.

Rule as to
costs where
plaintiff
proceeds
for balance

(5) If after tender and payment into court the plaintiff proceeds with the action and does not recover more than the sum paid into court, he shall pay the defendant his costs, charges and expenses, and the amount thereof may be paid to the defendant out of the money so paid in, or may be recovered from the plaintiff in the same manner as money payable under a judgment, but, if the plaintiff recovers more than the sum paid into court, the full amount paid into court shall be applied towards the satisfaction of his claim, and judgment may be given against the defendant for the residue and costs of the action. R.S.O. 1950, c. 106, s. 82.

83.—(1) The defendant may, within the time limited for filing his notice of dispute, pay into court a sum in full satisfaction of the plaintiff's claim, together with the plaintiff's costs up to the time of such payment. Defendant may pay money into court

(2) The clerk shall forthwith deliver or send notice of such payment by registered mail to the plaintiff, and the sum so paid shall be paid to the plaintiff, and he shall be deemed to have accepted it in full satisfaction of his claim, and all proceedings in the action shall be stayed, unless within five days after the receipt of the notice the plaintiff gives notice to the clerk of his intention to proceed for the remainder of his claim, in which case the action shall proceed. Clerk to give notice of payment to plaintiff

(3) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him seem just. Notice may be given after five days

(4) If the plaintiff recovers no more than the sum paid into court, he shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, to be taxed and recovered by the same means as any other sum ordered by the court to be paid. R.S.O. 1950, c. 106, s. 83. Plaintiff to pay defendant's costs if no further sum recovered

84.—(1) A clerk or bailiff may take a confession or acknowledgment of debt from a defendant in the prescribed form, which shall be witnessed by the clerk or bailiff at the time of the taking thereof, and, upon the production of the confession or acknowledgment to the judge and proof thereof by the oath of the clerk or bailiff, the judge may order that judgment be entered thereon. Clerks and bailiffs may take confessions

(2) The oath shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant or any other person except his lawful fees for taking the confession or acknowledgment and that he has no interest in the demand sought to be recovered. Oath of clerk or bailiff

(3) Either party may apply to a judge for judgment to be signed on consent. R.S.O. 1950, c. 106, s. 84. Judgment on consent

85.—(1) The judge at any stage of the proceedings upon such terms as appear to him to be just may order that the name of the plaintiff, defendant, or garnishee improperly joined be struck out and that a person who ought to have been joined or whose presence is necessary in order to enable him effectually and completely to adjudicate upon the questions involved in the action be added as plaintiff, defendant or garnishee. Striking out and adding parties

Substituting
or adding
plaintiff

(2) Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff, the judge, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as he deems just.

Consent of
party added
required

(3) No person shall be added or substituted as a plaintiff or as a next friend unless his consent in writing thereto is filed.

Service on
parties
added

(4) A person who is added as a defendant or garnishee shall be served with a copy of the summons, the original summons being first amended, and the proceedings against him shall be deemed to have commenced from the date of the order making him a party, but, if the application to add a person as a party defendant or garnishee is made at the trial, the judge may make the order in a summary manner upon such terms as to him seem just, and may dispense with the service of a copy of the summons if such person or his agent consents thereto. R.S.O. 1950, c. 106, s. 85.

Third
party

86.—(1) Where a defendant claims to be entitled to contribution or indemnity from or any other relief over against a person not a party to the action or against another defendant, hereinafter called a third party, he may, within the time limited for entering his dispute, enter with the clerk his account, claim or demand in writing in detail, and, in cases of tort, particulars of his demand, against the third party stating the nature and grounds thereof, and shall at the same time deliver to the clerk a copy, and, if necessary, copies of his account, claim or demand, and shall pay to the clerk the prescribed fees.

Summons
to third
party

(2) The clerk upon receipt of the prescribed fees shall annex the account, claim or demand and particulars, if any, to a copy of the summons to the defendant and shall deliver a copy thereof to the proper person for service upon the third party.

Procedure

(3) The practice and procedure as between the defendant and the third party shall be the same *mutatis mutandis* as the practice and procedure as between a plaintiff and defendant, and the judge may make such direction as appears proper for having the question between the defendant and the third party most conveniently determined and as to the mode and extent in or to which the third party shall be bound

or made liable by the judgment in the action and may make such order or give such judgment against the third party as is required.

(4) Where a third party makes default in entering an appearance and if the action is tried and results in favour of the plaintiff, the judge who tries the action may, at or after the trial, direct such judgment as the nature of the case requires to be entered for the defendant giving the notice against the third party. Default of appearance

(5) A plaintiff shall not be prejudiced or unnecessarily delayed by reason of questions between the defendant and the third party in which he is not concerned, and such directions shall be given and terms imposed as are necessary to prevent delay of the plaintiff where it can be done without injustice to the defendant and the third party. R.S.O. 1950, c. 106, s. 86. Delay to be avoided

87. Where in an action in which the claim is not a debt or money demand the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, the plaintiff shall not be required to prove liability but shall prove the amount of his claim in court. R.S.O. 1950, c. 106, s. 87. Where no dispute, general rule

88.—(1) Where in an action for the recovery of a debt or money demand the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, final judgment may be entered by the clerk at any time within six months of the return of the summons, or, by the order of the judge, at any time thereafter for the amount claimed, and execution may issue thereon without prejudice to the right of the plaintiff to proceed for the remainder of his claim. Default judgment

(2) Where in an action for the recovery of a debt or money demand a notice of dispute is filed in respect of part only of the plaintiff's claim, subsection 1 applies to the other part of the claim. Dispute as to part of claim

(3) Judgment shall not be entered until the summons and claim with an affidavit of the due service of both have been filed. Proof of service

(4) The judge may set aside the judgment and permit the case to be tried on such terms as to him seem just. R.S.O. 1950, c. 106, s. 88. Judge may set aside judgment

Default judgment not to be entered until proper court proved

(5) Where a summons has been forwarded for service in another division under section 22 and the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, the clerk shall not enter judgment until it is proved in court that the action was entered in the proper court, and, if the judge is satisfied that the action was not entered in the proper court, he shall transfer the case to the proper court on such terms as to him seem just. 1957, c. 29, s. 5; 1958, c. 25, s. 1.

Judgment by default under s. 88, where final judgment not entered

89. Where proof is made by affidavit or otherwise of the service of a debt or money demand summons and of the claim as required by section 88 and judgment has not been entered under such section, the judge may, if the defendant does not in person or by agent appear in open court as required by the summons, give judgment against him by default without requiring proof of the plaintiff's claim. R.S.O. 1950, c. 106, s. 89; 1954, c. 24, s. 2.

Motion for judgment

90.—(1) In an action for \$25 or more commenced by a debt or money demand summons, the plaintiff, on an affidavit made by himself or any other person swearing positively to the facts and verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action, and the reasons why immediate judgment should be granted, may concurrently with the service of the debt or money demand summons, or at any subsequent time, serve the defendant with a notice of motion and copy of the affidavit, returnable not less than four clear days after service, to show cause before the judge why the plaintiff should not be at liberty to have final judgment entered by the clerk for the amount of the debt or money demand sought to be recovered, together with interest, if any, and costs.

Idem

(2) The judge thereupon, if the reasons for immediate judgment appear to be sufficient, unless the defendant or his agent by affidavit or otherwise satisfies him that the defendant has a good defence to the action on the merits, or discloses such facts as are deemed sufficient to entitle him to defend the action, may make an order empowering the clerk to sign final judgment.

How defendant may show cause

(3) The defendant may show cause by offering to bring into court the amount sought to be recovered, or by affidavit which shall state whether the defence he alleges goes to the whole or to part only, and if to part only, then to what part of the claim, and the judge may, if he thinks fit, order the defendant to attend and be examined upon oath, and to produce any books and documents, or copies thereof, or extracts therefrom.

(4) If it appears that the defence applies only to a part of the claim, or that part of the claim is admitted to be due, the plaintiff is entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs or otherwise, as to the judge seems just, and the defendant may be allowed to defend as to the residue of the claim. ^{Partial defence}

(5) If it appears to the judge that a defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff is entitled to have judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former. ^{Where one defendant has good defence}

(6) Leave to defend may be given unconditionally or subject to such terms as to giving security or otherwise as to the judge seem just. ^{Terms upon giving leave to defend}

(7) Within seven days after making the order and upon good grounds being shown, the judge may set aside or vary the order upon such terms as to him seem just. R.S.O. 1950, c. 106, s. 90. ^{Setting aside or varying order}

TRIALS, WITNESSES, EVIDENCE

91.—(1) Where a trial is to be had, the defendant shall either personally or by agent appear in the court to answer, and, on answer being made, the judge shall without further pleading or formal joinder of issue proceed in a summary way to try the action and give judgment, and, if satisfactory proof is not given entitling either party to judgment, he may nonsuit the plaintiff. ^{Judge may summarily dispose of action}

(2) No evidence shall be given of any cause of action except such as is contained in the claim as entered by the plaintiff, unless the judge in the special circumstances of any case otherwise directs. R.S.O. 1950, c. 106, s. 91. ^{Scope of evidence}

92.—(1) The clerk shall place all actions in which the sum sought to be recovered exceeds \$100 at the foot of the trial list and the judge shall in such cases, unless an agreement not to appeal has been signed and filed as provided by section ^{Actions over \$100}

107, take down the evidence in writing or cause the same to be taken down in shorthand by a shorthand writer appointed under section 13 of *The County Judges Act*, or by some other competent person.

R.S.O. 1960,
c. 77

Evidence
taken down
by judge

(2) Where the evidence is taken down by the judge in writing, it shall be left with the clerk and, in the event of an application for a new trial, it shall be forwarded to the judge by the clerk for the purposes of the application.

Shorthand
writer's
notes

(3) Where the evidence is taken down in shorthand, it is not necessary for the shorthand writer to extend or transcribe his notes except in the case of an appeal or an application for a new trial.

Fees and
expenses

(4) The fees and expenses of a shorthand writer appointed under section 13 of *The County Judges Act* attending for the purpose of taking down the evidence as provided in subsection 1 shall be borne and paid in the same manner as the fees and expenses of a shorthand writer attending a sittings of a county or district court. R.S.O. 1950, c. 106, s. 92.

Proceedings
in case
defendant
does not
appear

93. If the defendant does not appear at the trial or sufficiently excuse his absence, or if he neglects to answer, the judge, on proof of due service of the summons and particulars, may proceed with the trial in his absence, and, except where the plaintiff's claim is for unliquidated damages in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the judge may, in his discretion, give judgment without further proof. R.S.O. 1950, c. 106, s. 93.

Judge may
adjourn
hearing
of cause

94. The judge may adjourn the trial of an action, whether it is being tried with or without a jury, to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable him to enter more fully into his case or for any cause that the judge thinks reasonable, upon such conditions as to payment of costs and admission of evidence, or otherwise, as to him seem just. R.S.O. 1950, c. 106, s. 94.

Parties may
obtain
subpoenas
from clerk

95.—(1) A party may obtain from the clerk of any division court in the county a subpoena with or without the clause for the production of books, papers and documents, requiring any witness, resident in Ontario or served with the subpoena therein, to attend at a specified court or place before the judge, or an arbitrator appointed by him under the provisions hereinafter contained, and the clerk, when requested by a party or his agent, shall furnish copies of such subpoena.

(2) Any number of names may be inserted in a subpoena, and service thereof may be made by any literate person personally or by leaving a copy thereof at the usual place of abode of the witness, and proof of service and of tender or payment of witness fees and mileage may be received by the judge, either orally or by affidavit. R.S.O. 1950, c. 106, s. 95.

96.—(1) Every person served with a copy of a subpoena to or for whom at the time of service a tender or payment of his witness fees and mileage has been made, who refuses or neglects without sufficient cause to obey the subpoena, and every person in court called upon to give evidence who refuses to be sworn or to give evidence, is liable to pay such fine, not exceeding \$8, as the judge orders, and shall be also liable to imprisonment for a term not exceeding ten days on the order of the judge.

(2) The fine shall be levied and collected with costs by the same process as a judgment recovered in the court, and the whole or any part of the fine, after deducting the costs, is applicable, in the discretion of the judge, towards indemnifying the party injured by such refusal or neglect, and the remainder forms part of the Consolidated Revenue Fund. R.S.O. 1950, c. 106, s. 96.

97.—(1) If a party is desirous of having at the trial or hearing the testimony of a person residing out of Ontario, the judge, upon hearing the parties, may order the issue of a commission out of and under the seal of the court to a commissioner to take the examination of such person.

(2) An order shall not be made for the issue of a commission for taking the testimony of the party applying therefor, or of any person in his employment, unless in the opinion of the judge a saving of expenses will be caused thereby, or unless it is clearly made to appear that the party or person is aged, infirm, or unable from sickness to appear as a witness.

(3) If it is made to appear to the judge that a material and necessary witness residing in Ontario is sick, aged or infirm, or that he is about to leave Ontario, and that his attendance as a witness cannot be procured, the judge may make an order appointing a suitable person to take his testimony.

(4) An order may also be obtained for the examination of a witness who resides in a remote part of Ontario and at a great distance from the place of trial, if it is made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount

involved in the action, or so great that the party desiring his attendance should not under the circumstances be required to incur such expense.

Service of
order

(5) A copy of the order, with two days notice of the time and place of the examination, shall be served upon the opposite party, or his agent, who may appear and cross-examine the witness.

Rules, S.C.O.

(6) The rules of the Supreme Court, so far as they are applicable, apply to every commission or order issued under this section.

Costs of
commission

(7) The costs of the issue, transmission, execution and return of a commission issued or order made under this section are in the discretion of the judge, who may allow a sum in gross therefor, and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered in like manner as the ordinary costs of an action. R.S.O. 1950, c. 106, s. 97.

Admissi-
bility of
books of
account

98. In an action for a debt or money demand of not more than \$25, and in case of a defence of set-off or of payment so far as it extends to \$25, the judge, on being satisfied of their general correctness, may receive the plaintiff's, defendant's or garnishee's books as evidence, and may also receive as evidence the affidavit of any party or witness resident out of the county, but may require the party or witness to answer written interrogatories upon oath. R.S.O. 1950, c. 106, s. 98.

When
evidence
may be
given by
affidavit

99.—(1) In an action, the judge may in his discretion permit the evidence of any person out of the jurisdiction or in some remote part of Ontario to be given by affidavit upon such terms as to cross-examination, the answering of written interrogatories upon oath and the production of books and papers for inspection and otherwise as are deemed necessary.

Costs
occasioned
by objection
to affidavit
evidence

(2) Where in the opinion of the judge expense is unnecessarily incurred by reason of any objection of either party to the reception of affidavit evidence or by cross-examination, he may order that party to pay the costs of both parties occasioned by the objection. R.S.O. 1950, c. 106, s. 99.

Who may
act as
agents
at trial

100. A barrister or solicitor, or any other person not prohibited by the judge, may appear at the trial or hearing of an action as agent for a party thereto. R.S.O. 1950, c. 106, s. 100.

101. The judge shall, in court, openly, and as soon as may be after the trial, pronounce his decision, but, if he is not then prepared to pronounce a decision, he may postpone it until it is convenient for him to give it, and he shall then send it to the clerk, who shall forthwith enter the judgment and by registered mail notify the parties or their agents thereof. R.S.O. 1950, c. 106, s. 101.

Judge may
give
judgment
instantly or
postpone
judgment

102.—(1) The judge may order the times and the proportions in which a sum and costs recovered by judgment shall be paid, having regard to section 116.

Order as to
payment

(2) Unless otherwise ordered, execution shall not issue within fifteen days after the entry of judgment, but the judge may order the amount of the judgment or any instalment thereof to be paid into court. R.S.O. 1950, c. 106, s. 102.

Execution
not to issue
for 15
days after
judgment

103.—(1) Unless otherwise provided, the costs of and incidental to all actions are in the discretion of the judge, who has full power to determine by whom and to what extent costs shall be paid.

Judge's
authority
as to costs

(2) If the judge does not make an order as to costs, they abide the event of the action.

Costs to
abide event
except by
order

(3) Where the plaintiff does not appear or does not prove his claim, the judge may award to the defendant a sum for his trouble and attendance not exceeding what he would be entitled to if a witness on his own behalf, to be recovered by execution.

Allowance
to defendant
for
attendance

(4) Where the plaintiff fails to recover judgment by reason of the court not having jurisdiction, the judge nevertheless has the power conferred by subsection 1, and the recovery of the costs awarded may be enforced by the same remedies by which costs of proceedings within the proper competence of the court are recoverable. R.S.O. 1950, c. 106, s. 103.

Costs when
action fails
for want of
jurisdiction

104.—(1) Where in an action for more than \$100 that is contested as to liability or quantum, and in the cases mentioned in clauses *b* and *c* of section 108, a counsel or solicitor has been employed by the successful party in the conduct of the cause or defence, the judge may direct that a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$40 or, if the case occupies more than one day, to not more than \$50, be allowed to the successful party and it shall be added to the costs.

Counsel fee,
where action
contested

where
assessment
uncontested

(2) Where in an assessment of damages, upon which the defendant does not appear personally or by counsel and in which judgment is given for more than \$100, a counsel or solicitor has been employed by the plaintiff, the judge may direct that a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$25, be allowed to the plaintiff and it shall be added to the costs.

where
adjournment

(3) Where a party applies for and obtains an adjournment in an action involving more than \$100 that is contested as to liability or quantum, the presiding judge may, if he is of opinion that counsel for any of the other parties has been unduly inconvenienced by the adjournment, award him a counsel fee of \$10. R.S.O. 1950, c. 106, s. 104.

Costs of
witnesses
in certain
cases

105. Where the defendant having disputed the plaintiff's claim, afterwards and before the opening of the court, confesses judgment or pays the claim so short a time before the sittings of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff *bona fide* and reasonably incurs expenses in procuring witnesses or in attending at court, the judge may order the defendant to pay such costs or such portion thereof as to him seem just. R.S.O. 1950, c. 106, s. 105.

NEW TRIALS: APPEALS

New trial

106.—(1) Upon application made within fourteen days after the trial or, where the decision is not given at the trial, after the mailing of the notice of the decision to the party applying and upon good grounds being shown, the judge, after affording the other parties to the action an opportunity to be heard, may grant a new trial upon such terms as he thinks proper.

Extending
time for
application

(2) If reasonable excuse for the delay is shown to the satisfaction of the judge, the application may be made at any time within fourteen days after the expiration of the first-mentioned fourteen days.

Where
personal
service
not affected

(3) Where the summons has not been personally served, the application may be made at any time within fourteen days after the judgment has come to the knowledge of the defendant.

Judgment on
application
for new trial

(4) Instead of granting a new trial, the judge may pronounce the judgment that in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly.

(5) Either upon the application or upon granting a new trial, the judge may make such order staying proceedings as he deems proper, R.S.O. 1950, c. 106, s. 106. Stay of proceedings

107. An appeal does not lie if, before the commencement of the trial, there is filed with the clerk an agreement in writing not to appeal, signed by the parties or their agents, and the judge shall note in his minutes whether or not the agreement was so filed, and the minutes are conclusive evidence upon that point. R.S.O. 1950, c. 106, s. 107. Parties may agree not to appeal

108. Subject to section 107, an appeal lies to the Court of Appeal from the decision of the judge at or after the trial or upon an application for a new trial, except in cases where a new trial has been granted, Appeal to Court of Appeal

- (a) in an action or garnishee proceeding where the sum in dispute exceeds \$100, exclusive of costs;
- (b) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$100, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$60;
- (c) where the parties consent to an appeal; or
- (d) where the effect of the decision is to determine that a general assessment made by a mutual insurance company is invalid, but the company, unless the Court of Appeal otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the county court scale in any event. R.S.O. 1950, c. 106, s. 108.

109. Where a claim and counterclaim arise out of the same transaction or occurrence and an appeal is brought from the judgment upon either, the judgment upon both is subject to review by the court. R.S.O. 1950, c. 106, s. 109. Appeal, where counter-claim

110.—(1) Where an appeal lies, each party shall, before or at the trial, leave with the clerk a memorandum in writing of the name and place of residence of some person resident in the county town upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of residence, is sufficient, and, in the event of failure to leave such memorandum, all papers requiring service upon the party so failing may be served upon the clerk, or left at Agents for service where right to appeal

his office, and the clerk shall forthwith send, by registered mail, all papers so served upon him, to the person entitled thereto.

Case of
judicial
district

(2) This section does not apply to a provisional judicial district. R.S.O. 1950, c. 106, s. 110.

Certified
proceedings,
etc., to be
furnished
by clerk

111. The clerk shall, at the request of the appellant or his agent, certify under his hand to the Registrar of the Supreme Court at Osgoode Hall, Toronto, the summons with all notices endorsed thereon, the claim, and any notice of defence, the evidence and all objections and exceptions thereto, and all motions or orders made, granted, or refused therein, together with such notes of the judge's charge as were made, the decision when in writing, or the notes thereof, and all affidavits and other papers in the action, and shall furnish to the parties, when required so to do, copies of the proceedings so certified, or such part thereof as is required, and for every copy he is entitled to receive 5 cents for every 100 words. R.S.O. 1950, c. 106, s. 111.

Appeal,
when and
how made

112.—(1) The appeal shall be made in the time and manner prescribed by the rules of court and shall be heard and determined by one justice of appeal.

Stay of
proceedings

(2) After the appeal has been set down to be heard, the execution of the judgment appealed from shall be stayed pending the appeal, unless otherwise ordered by a judge of the Supreme Court. R.S.O. 1950, c. 106, s. 112.

Powers and
duties of
Court of
Appeal
R.S.O. 1950,
c. 76

113. On an appeal to the Court of Appeal under this Act, the Court of Appeal has the same powers and duties as in an appeal coming before it under *The County Courts Act* and the practice and procedure applicable thereto applies *mutatis mutandis* to appeals under this Act. R.S.O. 1950, c. 106, s. 113.

Taxable
costs on
appeal

114. The costs taxable between party and party of and incidental to an appeal are the actual disbursements, and no greater amount over and above actual disbursements than \$25 inclusive of counsel fee, and the costs of an appeal between solicitor and client are taxable on the county court scale. R.S.O. 1950, c. 106, s. 114.

JUDGMENTS; EXECUTIONS; TRANSCRIPTS

When money
not paid
pursuant
to order,
execution
to issue

115.—(1) Where the judge gives judgment or makes an order for the payment of money and default is made in payment of the whole or of any part thereof, the party in whose

favour the order has been made is entitled to execution against the goods and chattels and, subject to section 125, the land of the party in default.

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution to a bailiff of the court, or to a bailiff of any other court in the county, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs, with interest thereon from the date of the order or of the entry of the judgment, as have been ordered to be paid and remain due, and shall pay such sum, costs and interest over to the clerk.

(3) The bailiff of a division court has jurisdiction throughout the county to enforce execution and levy by distress and sale of the goods and chattels of the debtor the amount of any judgment and costs and to carry out all other process and proceedings to enforce payment of the judgment, and, where the limits of a division court include parts of two counties, such jurisdiction applies throughout both of such counties, but, where a bailiff goes outside the limits of the division for which he is appointed under this subsection, he is not entitled to any mileage allowance in respect of travel outside such division. R.S.O. 1950, c. 106, s. 115.

116. Except where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from the service of the summons, without the consent of the party entitled thereto, but, if it is proved to the satisfaction of the judge that a party is unable from sickness or other cause to pay the debt or damages recovered against him, or any instalment thereof ordered to be paid, or that for any other reason the issue of execution should be further postponed, the judge may stay the judgment, order or execution for such time and on such terms as he thinks fit, and so from time to time until it is proved that the cause of disability has ceased. R.S.O. 1950, c. 106, s. 116.

117. If there are cross judgments between the parties, the party who has obtained judgment for the larger sum shall have execution for the excess and satisfaction for the remainder, and also satisfaction on the judgment for the smaller sum shall be entered, and, if both sums are equal, satisfaction shall be entered upon both judgments. R.S.O. 1950, c. 106, s. 117.

118. Except in actions brought under section 65, an execution or attachment shall not be executed out of the limits of the county over which the judge of the court from

which the execution or attachment issues has jurisdiction. R.S.O. 1950, c. 106, s. 118.

Effect of
payment of
execution
before sale

119. Where the party against whom an execution has been issued pays or tenders to the clerk or to the bailiff, before an actual sale of his goods and chattels, the amount to be levied or so much thereof as the party in whose favour the execution has issued agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the bailiff shall withdraw from possession. R.S.O. 1950, c. 106, s. 119.

Notice to
plaintiff of
nulla bona
return

120.—(1) The clerk, immediately after a return of *nulla bona* has been made to an execution issued on a transcript of judgment, shall forward by registered mail to the plaintiff and to the clerk who issued the transcript a notice informing them of the date at which the execution issued, the date at which it was returned by the bailiff, and the return made.

Registration
certificate
to be filed

(2) The clerk shall file among the papers in the action the post-office certificate of registration, and the absence from among the papers of the certificate is *prima facie* evidence against the clerk that the notice was not forwarded. R.S.O. 1950, c. 106, s. 120.

Enforcing
claims under
R.S.O. 1960,
c. 78
in division
courts

121. Where a memorandum of the amount of a judgment or execution or a certificate of a claim within the jurisdiction of a division court is filed with a sheriff under *The Creditors' Relief Act*, and the amount is not paid in full, and the sheriff is unable to make the money thereon, the creditor may obtain from the sheriff a return according to the fact and file it with the clerk of the court in which the judgment was recovered, or, in the case of a certificate of a claim, with the clerk of the court of the division where the cause of action arose or where the debtor or one of the debtors, if more than one, resides, and the clerk shall enter the return in his procedure book, and in the latter case the claim thereupon becomes a judgment of the court for the unpaid balance due thereon appearing by the return and may be enforced in the same manner as a judgment of the court. R.S.O. 1950, c. 106, s. 121.

Revivor of
judgment in
case of death
of party

122. In the case of the death of either or both of the parties to a judgment, the party in whose favour the judgment has been entered, or his personal representative in case of his death, may in the prescribed form revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon. R.S.O. 1950, c. 106, s. 122.

123.—(1) Every execution against goods shall bear the date of its issue and is returnable immediately after the execution thereof, and, if unexecuted, remains in force for three months, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for six months from the date of the renewal.

(2) The execution so renewed has effect and is entitled to priority according to the time of the original delivery thereof to the bailiff. R.S.O. 1950, c. 106, s. 123.

124. Where the judge is satisfied by the oath of the execution creditor or by other testimony that he will be in danger of losing the amount of the judgment if compelled to wait until the day appointed for the payment thereof before an execution can issue, the judge may order an execution to issue at such time as he deems just. R.S.O. 1950, c. 106, s. 124.

125.—(1) Where the sum remaining unsatisfied on a judgment amounts to \$40 or upwards, the judgment creditor is entitled to an execution against the land of the judgment debtor, and the clerk, at the request of the party prosecuting the judgment, shall issue an execution against the land of the judgment debtor directed to the sheriff of a county.

(2) The execution has the same force and effect as an execution issued from a county court.

(3) Where an execution against lands has been placed in the hands of the sheriff, he shall give notice thereof to the judgment debtor by registered mail addressed to him at his present or last known residence.

(4) The sheriff shall make a return thereof and pay any money made thereon to the clerk of the court out of which the execution issued.

(5) Until the judgment is fully satisfied, the execution creditor may pursue the same remedy for the recovery thereof as if the judgment had been obtained in the county court.

(6) The writ, if unexecuted, remains in force for three years only from its issue, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for three years from the date of the renewal.

Formal
effect of
renewal

(7) The execution may be renewed by being marked on the margin with a memorandum signed by the clerk stating the day, month and year of the renewal, and a writ so renewed has effect and is entitled to priority according to the time of the original delivery thereof to the sheriff.

Evidence of
renewal

(8) The production of an execution purporting to be marked with the memorandum is *prima facie* evidence of its having been renewed.

Fees on
writ against
lands

(9) The sheriff is entitled to the same fees as upon a writ of execution against land issued from a county court.

Certificate
in lieu of
execution

(10) Where land is on hand for want of buyers, a sheriff to whom the execution is directed may endorse thereon a return of "land on hand for want of buyers" and shall return a certificate of the endorsement to the clerk of the division court from whose office the execution issued in lieu of the writ, and the endorsement and the certificate so returned shall be deemed to be a return of the writ, and thereupon a writ of *venditioni exponas* may be issued by the clerk for the sale of the land, and the original execution remains in force for the residue. R.S.O. 1950, c. 106, s. 125.

Bailiff after
seizure of
goods to
endorse date
of seizure
and give
notice of sale

126. The bailiff, after making a seizure under an execution against goods, shall endorse thereon the date of the seizure, and shall immediately and at least eight days before the time appointed for the sale put up at three of the most public places in the division where any property liable to be sold under the execution has been taken, public notice, signed by himself, of the time and place in the division when and where it will be exposed for sale, and the notice shall describe the property taken. R.S.O. 1950, c. 106, s. 126.

Goods not
to be sold
until 8
days after
seizure

127. The property so taken shall not be sold until the expiration of eight days at least after the seizure thereof, except upon the request in writing under the hand of the party whose property has been seized. R.S.O. 1950, c. 106, s. 127.

Bailiff's
fees when
action
settled

128. Where a bailiff has seized property under an execution or attachment and the action is afterwards settled between the parties, or the defendant makes an assignment for the general benefit of his creditors, the bailiff, until his fees and disbursements are fully satisfied, has a lien therefor upon so much of the property as will reasonably satisfy such fees and disbursements, but, in the event of a dispute as to the proper amount of the fees and disbursements, the amount claimed therefor may be paid into court until the proper

amount is certified by the judge, and on such payment into court the lien ceases. R.S.O. 1950, c. 106, s. 128.

129.—(1) The clerk, upon the application of a person having an unsatisfied judgment in his favour, shall prepare a transcript of the judgment in the prescribed form, and shall send it to the clerk of any other division court, whether in the same or in any other county, with the certificate at the foot thereof signed by him, sealed with the seal of the court, and addressed to the clerk of the court to whom it is to be sent, stating the amount unpaid upon the judgment, the date at which it was recovered, and the post-office address of the person applying for the transcript, and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and the certificate, enter the transcript and the amount due on the judgment according to the certificate in a book to be kept in his office for the purpose, and all proceedings may be taken for enforcing the judgment in such last-mentioned court.

(2) After a transcript has been issued under this section, no further proceedings shall be had in the court from which the transcript issued without an order from the judge, unless the person who obtained the transcript, or his agent, makes and files with the clerk an affidavit stating,

- (a) that the judgment remains unsatisfied in whole or in part;
- (b) that the execution issued out of the court to which the transcript was sent has been returned *nulla bona*, or that he believes the judgment debtor has not sufficient goods in the division of that court to satisfy the judgment,

and, upon the affidavit being filed, the clerk may issue such other process as the applicant is entitled to and may direct. R.S.O. 1950, c. 106, s. 129.

(3) Where a person has a judgment in the Supreme Court or in a county or district court and he desires to garnish the wages of the judgment debtor, he may file a certified copy of the judgment in the division court having jurisdiction to issue a direction to garnish the wages of the judgment debtor, and thereupon the clerk of that court shall enter the judgment in the same manner as a transcript of judgment from another division court, and thereafter directions to garnish the wages of the judgment debtor may issue and

subsequent proceedings thereon be taken as though the direction to garnish had been issued under a division court judgment. 1957, c. 29, s. 6.

Maximum
amount of
judgment
against a
garnishee

(4) Where directions to garnish are issued under subsection 3 and judgment is given against the garnishee, the judgment shall not be for an amount exceeding the jurisdiction of the court in a personal action. 1958, c. 25, s. 2.

JUDGMENT SUMMONS: SHOW CAUSE SUMMONS

Judgment
summons

130.—(1) A party having an unsatisfied judgment may procure a judgment summons from the court out of which execution might issue, if the judgment debtor resides or carries on business within the limits of that court.

Judgment
summons,
issue of

(2) Where a judgment debtor resides or carries on business in a city where there are two or more division courts having territorial jurisdiction within the limits of the city, a judgment summons may issue out of any such court in which the judgment has been recovered or in which a transcript of judgment has been entered. R.S.O. 1950, c. 106, s. 130 (1, 2).

Metropolitan
Toronto

(3) Subsection 2 does not apply to division courts in The Municipality of Metropolitan Toronto. 1957, c. 29, s. 7.

Affidavit
required
before
judgment
summons

(4) Before the summons is issued the judgment creditor, or his agent, shall make and file with the clerk an affidavit stating,

(a) that the judgment remains unsatisfied in whole or in part; and

(b) in the case of a second or subsequent summons, that the deponent believes that the judgment debtor sought to be examined is able to pay the amount due in respect of the judgment or some part thereof, or that he has rendered himself liable to be committed to jail under this Act.

Examination
of judgment
debtor

(5) The summons shall be served personally upon the judgment debtor at least eight days before the return day, and, if he appears, he may be examined upon oath as to any and what debts are owing to him and touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability that formed the subject of the action, and as to the means and expectation he then had, and as to the property and

means he still has of discharging the judgment debt, and as to the disposal he has made of any property.

(6) The party obtaining the summons and all witnesses ^{Examination of witnesses} whom the judge thinks requisite may be examined upon oath, touching the inquiries.

(7) The examination shall not be held in open court unless ^{Place of examination} the judge so directs.

(8) After the examination or upon written consent signed ^{Order as to payment} by the judgment debtor or his solicitor, the judge may make such order as to payment of the judgment and as to the time and manner thereof as he deems proper.

(9) The costs of the summons and of all proceedings ^{Costs} thereon shall be costs in the action, unless the judge otherwise directs.

(10) If, after the examination, the judge dismisses the ^{Party examined and discharged not to be again summoned} summons, no further judgment summons shall issue out of the same court against the judgment debtor at the suit of the same or any other creditor for a period of six months, except upon an affidavit satisfying the judge that since the examination the party has acquired the means of paying or that he did not then make a full disclosure of his estate, effects and debts upon the examination. R.S.O. 1950, c. 106, s. 130 (3-9).

131.—(1) A party who has examined a judgment debtor ^{Show cause summons} under a judgment summons may procure a show cause summons from the court out of which the judgment summons issued if the judgment creditor or his agent makes and files with the clerk of the court an affidavit deposing,

- (a) the particulars of the judgment and the amount thereof that remains unsatisfied;
- (b) the particulars of the examination upon the judgment summons and of the order for payment that was made; and
- (c) that the judgment debtor is in default under the order for a period of not less than fourteen days and the particulars thereof.

(2) The summons shall be served personally upon the ^{Service} judgment debtor at least eight days before the return day and, if he appears, he may be examined upon oath as to his default under the order for payment.

Determina-
tion re
default

(3) At the hearing the judge shall determine whether the default under the order for payment was wilful.

Where
default
wilful

(4) Where the judge finds that the default was wilful, he may commit the judgment debtor under section 132 for contempt of court.

Where
default not
wilful

(5) Where the judge finds that the default was not wilful, the judgment debtor may be examined as upon a judgment summons and the judge may make an order accordingly. R.S.O. 1950, c. 106, s. 131.

When
judgment
debtor
may be
committed
to jail

132. If the party summoned,

(a) does not attend as required by the summons, or at any subsequent date to which the hearing or examination is adjourned, or give a sufficient reason for not attending; or

(b) attends and refuses to be sworn or to answer such questions as in the opinion of the judge are proper,

or, if it appears to the judge, by the examination of the party or by other evidence, that he,

(c) obtained credit from the judgment creditor or incurred the debt or liability under false pretences, or by means of fraud or breach of trust; or

(d) has made or caused to be made any gift, delivery or transfer of any property, or has removed or concealed any property with intent to defraud his creditors or any of them; or

(e) had, when or since judgment was obtained against him, sufficient means and ability to pay the debt or damages or costs recovered against him, either altogether or by the instalments that the court in which the judgment was obtained ordered, without depriving himself or his family of the means of living, and that he has wilfully refused or neglected to make payment as ordered,

the judge may order him to be committed to the jail of the county in which he resides or carries on business, for any period not exceeding forty days. R.S.O. 1950, c. 106, s. 132.

When party
may be
committed
for non-
attendance

133. A party failing to attend in answer to a judgment summons or show cause summons is not liable to be committed for the default, unless the judge is satisfied that his non-attendance is wilful. R.S.O. 1950, c. 106, s. 133.

134.—(1) Where a judge has ordered a judgment debtor to be committed to jail, the order shall be enforced by the bailiff, unless the judge directs that the judgment debtor appear before him at a named time and place to explain his contempt, in which case notice thereof shall be sent to the judgment debtor by registered mail.

Enforce-
ment of
committal
order

(2) Where the judgment debtor appears to explain his contempt,

Appearance
to explain
contempt

(a) if the judge is of opinion that the default was wilful, he shall order the bailiff to enforce the warrant of commitment; or

(b) if the judge is of opinion that the default was not wilful, he shall order the judgment debtor to attend for examination at the next sittings of the court to be held for the hearing of judgment summonses and, in the event that the judgment debtor does not so attend, the judge presiding at the sittings may order that he be forthwith committed to jail.

(3) Where the judgment debtor does not appear at the time and place named in the notice, the judge may direct that the warrant of commitment be enforced. R.S.O. 1950, c. 106, s. 134.

Non-
appearance
to explain
contempt

135. Where at the hearing upon a judgment summons or show cause summons it appears to the judge by the examination of the party, or otherwise, that he ought not to have been summoned, or, where the judgment creditor or his agent does not appear, the judge may award the party summoned compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as a judgment of the court. R.S.O. 1950, c. 106, s. 135.

Costs
allowed
him in
certain
cases

136.—(1) Where an order of commitment has been made, the clerk shall issue, under the seal of the court, a warrant of commitment directed to the bailiff of any court in the county, upon which shall be endorsed a memorandum of the amount due under the judgment, and the bailiff may, by virtue of the warrant, take the party and deliver him to the keeper of the jail in which he has been directed to be imprisoned.

Warrant of
commitment

(2) All constables and other peace officers within their respective jurisdictions shall aid in the execution of the warrant, and the keeper of the jail shall receive and keep the party therein until discharged under this Act, or otherwise, in due course of law. R.S.O. 1950, c. 106, s. 136.

Constables,
etc., to
execute
warrants

When debtor
in custody
shall be
discharged

137. A party shall be discharged out of custody,

(a) by order of the judge; or

(b) at the expiration of the time prescribed in the warrant of commitment. R.S.O. 1950, c. 106, s. 137.

Alteration
of order
for
payment

138.—(1) The judge may rescind or alter the order for payment made upon a judgment summons or show cause summons and make any further or other order for the payment of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that the judge thinks reasonable.

Order of
commitment

(2) The judge may rescind or alter or stay the operation of any order of commitment made by him, whether or not it has been acted on. R.S.O. 1950, c. 106, s. 138.

Examination
of officer
of company

139.—(1) A party having an unsatisfied judgment against a corporation may issue a summons calling upon any officer of the corporation to attend before the judge and submit to examination as to the property and assets of the corporation and its dealings with them, and, if the person summoned fails to attend or to submit to examination, he is liable to be committed to the jail of the county for any period not exceeding forty days.

Summons

(2) The summons shall be issued and served as nearly as may be in the same manner as in the case of a summons to a judgment debtor. R.S.O. 1950, c. 106, s. 139.

Debt not
to be
extinguished
by im-
prisonment

140. Imprisonment under this Act does not extinguish the judgment or affect any order for payment that has been made, or protect the judgment debtor from being summoned anew and imprisoned for any new fraud or other default rendering him liable to be imprisoned, or deprive the judgment creditor of the right to execution on his judgment. R.S.O. 1950, c. 106, s. 140.

GARNISHMENT PROCEEDINGS

Interpre-
tation

141. For the purposes of garnishment proceedings under this Act,

(a) money that is earned or owing, although not yet due or payable, is deemed to be "owing or accruing"; and

(b) a reference to the amount of the judgment creditor's judgment or the plaintiff's claim, or words of like

import, is deemed to include the amount of costs that have been incurred. R.S.O. 1950, c. 106, s. 141.

142.—(1) After judgment has been recovered, the clerk of the court in which the judgment was recovered or the clerk of the court to which the judgment has been transcribed shall, upon the filing of an affidavit as required by subsection 2, issue a direction to garnish directing that all debts owing or accruing to the judgment debtor be attached to satisfy the judgment. ^{Garnishment after judgment}

(2) Upon the making of the application, there shall be filed with the clerk an affidavit stating, ^{Material on application}

(a) the date and amount of the judgment and the amount remaining unsatisfied;

(b) that the deponent has reason to believe that the person sought to be named as garnishee,

(i) resides or carries on business in the county where the court is located, and

(ii) is indebted to the judgment debtor;

(c) where the judgment creditor intends to effect service of the direction by registered mail, the address where the judgment debtor and garnishee reside or carry on business; and

(d) where the judgment creditor seeks to obtain a direction to garnish in respect of wages and without exemption, that the debt was incurred for board or lodging or that the judgment debtor is an unmarried person having no one dependent upon him for support.

(3) The direction to garnish, which shall be in the prescribed form, and the affidavit used upon the application therefor shall be prepared, ^{Preparation of affidavit and direction}

(a) where the judgment creditor has a solicitor or agent, by the solicitor or agent; and

(b) where the judgment creditor has no solicitor or agent, by the judgment creditor or, if he so requests, by the clerk of the court. R.S.O. 1950, c. 106, s. 142.

Notices
upon a
direction

143. The following notices shall appear upon every direction to garnish:

A

NOTICE TO GARNISHEE

Within ten days after the mailing to you or personal service upon you of this direction you are required to either,

- (a) pay to the clerk of the court the amount owing or accruing from you to the judgment debtor or sufficient thereof to satisfy the judgment of the judgment creditor including costs; or
- (b) file with the clerk of the court a statement signed by you stating,
 - (i) that at the time of the receipt by you of this direction to garnish there was no money owing or accruing from you to the judgment debtor, and
 - (ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirement above set out, the judgment creditor may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of his judgment against the judgment debtor and for his costs.

Where the amount sought to be garnished is wages, this notice shall be read subject to *The Wages Act*.

B

NOTICE TO JUDGMENT DEBTOR

At any time within ten days after the mailing to or personal service upon you of this direction you may dispute this direction to garnish or any of the statements therein contained by filing with the clerk of the court a notice setting out the particulars of your dispute.

C

NOTICE TO ALL PARTIES TO THIS
PROCEEDING

Any of the parties to this proceeding, that is to say, any judgment creditor, judgment debtor or garnishee, may in writing request the clerk of the court to place it upon the trial list in order that the rights of any such party may be determined.

R.S.O. 1950, c. 106, s. 143.

Service of
direction to
garnish

144.—(1) The direction to garnish shall be served upon both the judgment debtor and the garnishee as soon as is convenient, and, in any event, not more than fifteen days after its issue.

(2) Service may be effected,

Method of
service

(a) by personal service; or

(b) by registered mail addressed to each or either of them at the address set out in the affidavit referred to in section 142. R.S.O. 1950, c. 106, s. 144.

145. Service upon the garnishee of the direction to garnish has the effect, subject to the rights of other persons, of attaching and binding in his hands all debts then owing or accruing from him to the judgment debtor, and payment by the garnishee into court of the debt so attached to the extent to which the judgment is unsatisfied is to that extent a discharge of the debt. R.S.O. 1950, c. 106, s. 145.

Effect of
service

146. Subject to any request for a hearing by a judge, money paid into court by a garnishee pursuant to a direction to garnish shall, upon the filing with the clerk of an affidavit proving service upon the judgment debtor of the direction to garnish, be paid out to the judgment creditor, but no such payment to the judgment creditor shall be made until fifteen days after the date of such service. R.S.O. 1950, c. 106, s. 146.

Payment
out

147. Payment by the garnishee after service on him of the direction to garnish, otherwise than into court, except by leave of the judge, is, to the extent of the judgment creditor's claim and costs, void, and the garnishee is liable to again make payment to the extent of the judgment creditor's claim, unless the judge otherwise orders. R.S.O. 1950, c. 106, s. 147.

Payment
to any but
primary
creditor void

148.—(1) Where a party requests the clerk in writing to place the proceeding upon the trial list, the clerk shall place it upon the list for the first court day in respect of which notice as herein required may be given, and at least ten days before such day shall mail notice thereof by registered mail to each of the parties to the proceeding.

Hearing
required

(2) Upon the hearing, the judge shall determine the matter in a summary manner and make such order as he deems fit, and, where the garnishee has defaulted under the notice lettered A set out in section 143, he may give judgment in favour of the judgment creditor against the garnishee.

Disposition
at hearing

(3) Upon a hearing, in determining any question of liability as between the judgment debtor and the garnishee, the judge shall have regard to any statutory or other defence or set-off that has been set up by the garnishee. R.S.O. 1950, c. 106, s. 148.

Defences of
garnishee

Adverse
claims

149. Where a person other than the judgment creditor or judgment debtor claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim, and, where there is more than one claim, decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case requires. R.S.O. 1950, c. 106, s. 149.

Costs where
garnishee
unsuccessful

150. Where a direction to garnish has been issued and no moneys are realized thereon, the costs thereof shall not be costs against the judgment debtor, unless the judge, who may give his direction upon an *ex parte* application, otherwise directs. R.S.O. 1950, c. 106, s. 150.

Garnishment
before
judgment

151.—(1) Where a judgment has not been recovered, a plaintiff in an action in which a debt or money demand summons may be issued may cause to be issued out of the court of the division in which the garnishees, or one of them, if they are joint garnishees, reside or carry on business, a garnishment summons with the particulars of his claim against the defendant with reasonable certainty and detail attached thereto or endorsed thereon.

Summons
to be
deemed
debt or
money
demand
summons

(2) As between the plaintiff and the defendant, the garnishment summons shall be deemed a debt or money demand summons, and the provisions of this Act applicable to a debt or money demand summons and proceedings thereon apply.

Service of
summons

(3) A copy of the garnishment summons and particulars shall be served on the defendant and on the garnishee in the manner provided for the service of a summons in other actions. R.S.O. 1950, c. 106, s. 151.

Form of
garnishment
summons

152. A garnishment summons shall be in the same form as a summons to a defendant, but,

- (a) the name of the garnishee shall appear in the style of cause; and
- (b) the following notice shall appear thereon:

NOTICE TO GARNISHEE

Within ten days of the service upon you of this summons you are required to either,

- (a) pay to the clerk of the court the amount owing or accruing from you to the defendant or sufficient thereof to satisfy the claim of the plaintiff including costs; or

- (b) file with the clerk of the court a statement signed by you stating,
- (i) that at the time of the receipt by you of this summons there was no money owing or accruing from you to the defendant, and
 - (ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirements above set out, the plaintiff may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of any judgment he may recover in this action against the defendant and for his costs.

R.S.O. 1950, c. 106, s. 152.

153. Service upon the garnishee of a garnishment summons has the same effect and consequence as service of a ^{Effect of} summons ^{against} garnishee in the direction to garnish. R.S.O. 1950, c. 106, s. 153.

154.—(1) Where judgment is obtained against the defendant under sections 88, 89 or 90, or is obtained at the trial, ^{Judgment} ^{against} ^{garnishee} or where judgment is not then given, on proof of the service on the defendant of a copy of the garnishment summons and particulars, and of the debt due and owing by the defendant, the judge, on proof of the amount owing or accruing due to the defendant from the garnishee, may give judgment against the garnishee in the prescribed form for the amount so owing or accruing from him or sufficient thereof to satisfy the claim of the plaintiff and costs, which sum the garnishee shall pay into court towards the satisfaction of the claim and costs, and, in default, execution may issue therefor, if due, or as it becomes due, or at such later period as the judge orders.

(2) Where the garnishee in a statement signed by him and ^{Hearing of} ^{garnishee} filed with the clerk of the court sets up a statutory or other defence or set-off, he shall be given notice of a hearing at which he may furnish proof of such defence or set-off before judgment is given against him. R.S.O. 1950, c. 106, s. 154.

155. Where a person, other than the plaintiff or defendant, claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim, and, where there is more than one claim, decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case requires. R.S.O. 1950, c. 106, s. 155.

CONSOLIDATION ORDERS

Application
for consoli-
dation order

156.—(1) A judgment debtor against whom more than one division court judgment remains unsatisfied in whole or in part may apply to the judge of the court of the division in which he resides for a consolidation order.

Material on
application

(2) Upon the application, the judgment debtor shall file his own affidavit setting forth,

- (a) the names and addresses of the creditors who have obtained judgment against him in a division court, the date, amount and other particulars of each judgment, and the amount that he owes to each such judgment creditor;
- (b) the amount of his income from all sources, naming them;
- (c) his business or occupation, and the address of his employer;
- (d) a statement of his family or like obligations and of any other relevant facts.

Disposition
ex parte or
upon notice

(3) Upon the application, the judge may make a consolidation order *ex parte* or may give such directions as to notice as he deems fit.

Computa-
tion of
amounts

(4) Before making a consolidation order the judge shall determine the average weekly income of the judgment debtor for the three-month period immediately before the making of the application, making all proper allowances where the occupation is of a seasonal nature, and shall order the following amounts, calculated to the nearest dollar, to be paid into court under the consolidation order, subject always to any variation that, because of extenuating or other special circumstances, the judge deems proper:

1. 15 per cent of the average weekly income, where the average weekly income does not exceed \$30.
2. 20 per cent of the average weekly income, where the average weekly income exceeds \$30 and does not exceed \$40.
3. 25 per cent of the average weekly income, where the average weekly income exceeds \$40 and does not exceed \$50.

4. 30 per cent of the average weekly income, where the average weekly income exceeds \$50.

(5) A consolidation order shall set out,

Particulars
of order

- (a) a list of the division court judgments outstanding against the judgment debtor, indicating in each case the date, court and amount and the amount still outstanding;
- (b) the amounts to be paid into court by the judgment debtor under the consolidation order; and
- (c) the times of such payments. R.S.O. 1950, c. 106, s. 156.

157.—(1) The original consolidation order shall be filed with the clerk of the court in which it was made and a copy thereof, certified by such clerk, may be filed by the judgment debtor in any other division court.

Filing order
and copies

(2) Upon the filing of the original consolidation order, the clerk shall open a consolidation account in the name of the judgment debtor and shall credit thereto all payments made under the consolidation order. R.S.O. 1950, c. 106, s. 157.

Consolidation account

158.—(1) Where a judgment creditor objects to the amount directed to be paid or to any other judgment creditor being included in the consolidation order, he may apply to the judge for an appointment to determine the matter.

Objection
by creditor

(2) Notice of the appointment shall be sent by registered mail to such persons as the judge directs, and, upon the appointment, the judge shall deal with the matter in a summary manner, and his determination is final. R.S.O. 1950, c. 106, s. 158.

Judge's
determination

159.—(1) Where a judgment is obtained against the judgment debtor after the date of the consolidation order for a debt incurred before the date of the consolidation order, the judgment creditor may deliver to the clerk of the court in charge of the consolidation order a notice of his judgment, and his name shall forthwith be added to the consolidation order and he shall thereafter share in the distribution under the consolidation order.

Debt
incurred
before
order

(2) Where a judgment is obtained against the judgment debtor after the date of the consolidation order for a debt incurred after the date of the consolidation order, the consolidation order *ipso facto* terminates. 1957, c. 29, s. 8.

Judgment
after order

Further
order

(3) Where the judgment debtor applies for a further consolidation order, the judge shall examine the nature of the further debt or debts incurred and may make such order. 1955, c. 18, s. 1, *part*.

Stay of
proceedings

160. A judgment debtor in respect of whom a consolidation order has been made may, either before default has occurred or not later than the tenth day after default has occurred, apply to the judge for a stay of proceedings, and, upon notice of the hearing being sent by registered mail to all judgment creditors, or such of them as the judge directs, the judge shall hear the application and may by order grant such stay of proceedings as he deems fit or he may dismiss the application. R.S.O. 1950, c. 106, s. 160.

Effect of
order

161.—(1) Subject to subsection 2, no garnishment summons and no proceedings subsequent to judgment, except an execution against lands, shall be taken or continued against the judgment debtor named therein in a division court in which a consolidation order or a certified copy thereof is filed. R.S.O. 1950, c. 106, s. 161 (1); 1955, c. 18, s. 2 (1).

Default

(2) Where a judgment debtor is in default for a period of twenty days under a consolidation order, the consolidation order is, subject to any order under section 160 that may have been made before such date, *ipso facto* terminated, and any judgment creditor named in the consolidation order may obtain from the clerk of the court in which the consolidation order was made a certificate of termination for the purpose of filing it in any court in which a copy of the consolidation order is filed. R.S.O. 1950, c. 106, s. 161 (2).

Stay for
3 months

(3) Where a consolidation order has terminated under subsection 2, no further consolidation order shall be made in respect of such judgment debtor for a period of three months from the date of such termination. 1955, c. 18, s. 2 (2).

Addition of
Supreme
and county
court
judgments to
consolidation
orders

162. Notwithstanding subsection 1 of section 161, where a judgment is transferred under subsection 3 of section 129 and a consolidation order has been made against the judgment debtor, the clerk of the court shall add the judgment to the consolidation order but only to the extent of \$200. 1960, c. 27, s. 1.

Property
in moneys

163.—(1) All moneys paid into a consolidation account belong to the judgment creditors named in the consolidation order who shall share *pro rata* in the distribution of the moneys.

(2) The clerk shall distribute the moneys paid into the ^{Distribution} consolidation account on account of the judgments at least once every three months, and at the time of distribution shall send to each creditor a distribution sheet showing the total amount paid and the distribution thereof.

(3) The distribution shall be on a *pro rata* basis according ^{Basis of} to the amount of each of the judgments filed with the clerk, ^{distribution} or as nearly so as is practicable to the nearest dollar.

(4) The clerk is entitled to a fee of 10 per cent of the ^{Fees of} amount paid in of which amount 5 per cent shall be charged ^{clerk} to the judgment creditors and 5 per cent to the judgment debtor. R.S.O. 1950, c. 106, s. 162 (1-4).

(5) The amount of the postage paid shall be deducted ^{Postage} from the amounts paid to the judgment creditors. R.S.O. ^{to be} deducted 1950, c. 106, s. 162 (5), *amended*.

ABSCONDING DEBTORS

164. Where a person indebted in a sum not less than \$4, ^{Warrant for} either for debt or damages arising upon a contract, and ^{attachment} recoverable in or upon a judgment of a division court,

- (a) absconds from Ontario, leaving personal property liable to seizure under execution for debt in any county; or
- (b) attempts to remove such personal property out of Ontario or from one county to another therein with intent to defraud; or
- (c) keeps himself concealed to avoid service of process,

the clerk of any division court, upon the application of the creditor and upon his filing an affidavit in the prescribed form made by him, his agent or servant, shall issue a warrant in the prescribed form, directed to the bailiff of the court from which it issued, or to a constable of the county, commanding him to attach, seize, take and safely keep all the personal estate and effects of such person in the county, liable to seizure under execution for debt, or a sufficient part thereof to secure the sum mentioned in the warrant with costs, and to return the warrant forthwith to the court. R.S.O. 1950, c. 106, s. 163.

When judge or justice of the peace may issue attachments, etc.

165. The affidavit mentioned in section 164 may be taken before a judge or a justice of the peace, and, upon the filing thereof with him, he may issue a warrant under his hand and seal in the form mentioned in section 164, and he shall forthwith transmit the affidavit to the clerk of the court in whose division it was taken, to be by him filed. R.S.O. 1950, c. 106, s. 164.

Bailiff or constable to seize and make inventory

166. Upon receipt of a warrant by the bailiff or constable and upon being paid his lawful fees, including the fees for appraisement, he shall forthwith execute the warrant and make a true inventory of all the estate and effects that he seizes and takes by virtue thereof, and shall, within twenty-four hours after seizure, call to his aid two freeholders, who, being first sworn by him to appraise the estate and effects seized, shall then appraise them, and the bailiff or constable shall forthwith return the inventory attached to the appraisement to the clerk. R.S.O. 1950, c. 106, s. 165.

Proceedings may be continued in same court

167. In an action commenced by attachment, the proceedings may be conducted to judgment and execution in the court of the division in which the warrant issued. R.S.O. 1950, c. 106, s. 166.

Proceedings commenced before attachment

168. Where proceedings have been commenced before the issue of an attachment, they may be continued to judgment and execution in the court in which the proceedings were commenced. R.S.O. 1950, c. 106, s. 167.

Property attached may be sold under execution

169. The property attached upon a warrant of attachment is liable to seizure and sale under the execution to be issued upon the judgment, and, if the property was perishable and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R.S.O. 1950, c. 106, s. 168.

Plaintiff not to divide cause of action

170. A plaintiff shall not divide a cause of action into two or more actions for the purpose of bringing it within the provisions of sections 164 to 169, but a plaintiff having a cause of action for which, but for the amount of the claim, an attachment might be issued, may abandon the excess, and the judgment is a full discharge of all demands in respect of the cause of action, and the entry of judgment shall be made accordingly. R.S.O. 1950, c. 106, s. 169.

If several attachments issued
R.S.O. 1960, c. 1

171. Subject to *The Absconding Debtors Act*, where there are several attachments against a party, the proceeds of the property attached shall not be paid over to the attaching creditors according to priority, but shall be rateably distributed among such of them as obtain judgment against the

debtor in proportion to the amounts actually due upon their judgments, and no distribution shall take place until, in the opinion of the judge, reasonable time has been allowed to the creditors to proceed to judgment. R.S.O. 1950, c. 106, s. 170.

172. Where the proceeds of the property are insufficient to satisfy the claims of all the attaching creditors, a creditor shall not be allowed to share, unless he sued out his attachment and gave notice thereof to the clerk of the court out of which the first attachment issued or into which it was returnable within one month next after the issue of the first attachment. R.S.O. 1950, c. 106, s. 171.

173.—(1) Where property is attached under sections 164 to 172 by a constable, it shall be handed over forthwith to the bailiff of the court out of which the warrant of attachment issued or into which it was made returnable.

(2) Property attached by a bailiff under sections 164 to 172 and the property delivered to him under subsection 1 shall remain in the custody of the bailiff, and he shall keep it until it is disposed of according to law. R.S.O. 1950, c. 106, s. 172.

174.—(1) Where a person against whom an attachment has issued, or any person on his behalf, executes and files in the court to which the attachment, or first attachment, if there are more than one, has been returned, or is returnable, a bond with good and sufficient sureties, to be approved by the judge or clerk, binding the obligors, jointly and severally, to the clerk, in double the appraised value of the property attached, with a condition that the debtor (naming him) will, whenever thereunto required by order of the judge, pay into court a sum sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property or the value of the property attached, or will produce the property to satisfy the judgments, the clerk may supersede the attachment, and the property attached shall be restored.

(2) Subject to section 171, if, within one month after the property has been attached, the person against whom the attachment has issued, or some person on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been recovered, and the property attached, or so much thereof as is necessary to satisfy the judgment and costs, may be sold for the satisfaction thereof, or, if the property has been previously sold as perishable, so much of the proceeds thereof as are necessary may be applied to satisfy the judgment and costs. R.S.O. 1950, c. 106, s. 173.

Proceedings
against
debtors
where pro-
cess not
previously
served

175.—(1) Where a summons has not been served before the issue of a warrant of attachment, it may be served personally or by leaving a copy at the last place of residence or business of the defendant with any grown person residing there, or by leaving the copy at such place if no grown person is there found.

Costs

(2) If it appears to the judge at the trial that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the judge shall order that no costs be allowed to the creditor. R.S.O. 1950, c. 106, s. 174.

Perishable
goods, how
disposed of
R.S.O. 1960,
c. 1

176. Subject to *The Absconding Debtors Act*, where perishable property has been attached, the bailiff who has the custody thereof, it having been first appraised, may, at the request of the attaching creditor, expose and sell it at public auction to the highest bidder, giving at least eight days notice, at the office of the clerk and at two other public places in his division, of the time and place of sale, if the property attached will admit of being so long kept, otherwise he may sell it at his discretion. R.S.O. 1950, c. 106, s. 175.

Creditors
may be
required to
indemnify
the
defendant

177.—(1) It is not compulsory upon the bailiff or constable to attach, or upon the bailiff to sell, perishable property until the attaching creditor has given a bond to the defendant, with good and sufficient sureties to the satisfaction of the bailiff, in double the amount of the appraised value of the property, conditioned that the attaching creditor will repay the value thereof, together with all costs and damages incurred in consequence of the attachment and sale, in case judgment is not obtained by him, and the bond shall be filed with the clerk.

Application
of proceeds
of sale

(2) The money made shall be paid over by the bailiff to the clerk, to be dealt with in the manner hereinbefore provided. R.S.O. 1950, c. 106, s. 176.

Enforcing
security
given
under Act

178.—(1) A bond given in the course of any proceeding under this Act may be sued on in any division court of the county in which it was executed, notwithstanding that the penalty in the bond exceeds the sum of \$100.

Delivery of
bond to
party
entitled

(2) The bond shall be delivered to any person entitled to it, upon the order of the judge, to be enforced or cancelled as the case requires. R.S.O. 1950, c. 106, s. 177.

CLAIMS OF LANDLORDS, ETC., WITH RESPECT TO GOODS SEIZED

179. In this section and in sections 180 and 181,

Interpre-
tation

- (a) "agent" means a person usually employed by the landlord in the letting of land or in the collection of the rents thereof, or specially authorized by writing under the hand of the landlord to act in any particular matter;
- (b) "landlord" includes the person entitled to the immediate reversion of land, or, if it is held in joint tenancy, coparcenary or tenancy in common, any one of the persons entitled to the reversion. R.S.O. 1950, c. 106, s. 178.

180.—(1) Where a claim is made to or in respect of property or security taken in execution or attached under the process of a division court, or the proceeds or value thereof, by a landlord for rent, or by a person other than the party against whom the process issued, then, subject to *The Absconding Debtors Act*, upon application of the bailiff or officer charged with the execution of the process, either before or after an action has been brought against him, the clerk shall issue a summons calling before the court out of which the process issued, or the court for the division in which the seizure or attachment under the process was made, the party who issued the process and the person making the claim, and thereupon any action that has been brought in the Supreme Court or in any other court in respect of the claim shall be stayed.

Adjustment
of claims of
landlords,
etc., to goods
seized in
execution

R.S.O. 1960,
c. 1

(2) The court in which the action has been brought, or a judge thereof, on proof of the issue of the summons, and that the property or security was taken in execution or upon attachment, may order the party bringing the action to pay the costs of all proceedings had in the action after the issue of the summons out of the division court.

Costs

(3) The judge shall adjudicate upon the claim and make such order between the parties in respect thereof and of the costs of the proceedings as to him seems just, and shall also adjudicate between the parties, or either of them, and the bailiff or officer in respect of any claim for damages arising out of the execution of the process by the bailiff or officer, although the amount of the damages claimed or awarded is beyond the jurisdiction of a division court, and may make such order in respect thereof and of the costs of any proceedings as to him seems just.

Judge to
adjudicate
on claims

Enforcing
order

(4) The order may be enforced in like manner as an order made in an action.

New trial

(5) The judge, upon the application of the execution or attaching creditor or the claimant, or the bailiff or officer, may grant a new trial as in other cases, and may in the meantime stay proceedings

Where more
than one
execution or
attachment
has issued

(6) Where the bailiff or officer has executions or attachments for different persons against the same property, it is not necessary to make a separate application on each execution or attachment, but he may use the names of the execution or attaching creditors collectively in the application, and the summons may issue in the names of the creditors as plaintiffs.

Rights of
parties as to
defence and
as to costs

(7) The parties and the bailiff have the same rights of defence and counterclaim, including in all cases the right and liability to costs, as would exist had an action, within the jurisdiction of the court, been brought to recover the damages. R.S.O. 1950, c. 106, s. 179.

Provisions in
relation to
rents due
to
landlords

181.—(1) The landlord of a tenement in or upon which property is taken under an execution, may, by notice in writing, signed by himself or his agent, stating the terms of the holding and the rent payable, delivered to the bailiff or officer making the levy, claim any rent due and in arrear at the time of the taking in execution not exceeding the rent of four weeks where the tenement has been let by the week, and not exceeding the rent for two terms of payment where the tenement has been let for any other term less than a year, and not exceeding in any case the rent for one year.

Notice of
claim for
rent

(2) Notice of the claim may be given at any time before the return of the process, notwithstanding that the property may in the meantime have been removed from the premises upon which it was seized, and, where the property of a tenant is sold within ten days after seizure, the money realized shall remain in court until the expiration of the ten days to answer the claim of the landlord, and, where the money has been paid into court, the notice may be directed to the clerk with like effect as if given to the bailiff or officer before the sale of the property seized.

How the
bailiff is to
proceed

(3) The bailiff or officer making the levy shall also distrain for the amount of the rent claimed and the costs of the distress, but shall not sell the property, or any part thereof, until after the expiration of eight days after the distress.

(4) For every distress for rent in arrear the bailiff or officer is entitled to have as costs of the distress, instead of the fees allowed by this Act, the fees allowed by *The Costs of Distress Act*. Fees of bailiff in such cases R.S.O. 1960, c. 74

(5) If any replevin is made of the property distrained, so much of the property taken under the execution shall be sold as will satisfy the money and costs for which the execution issued and the costs of the sale, and the surplus of the sale, if any, and the property so distrained shall be returned as in other cases of distress for rent and replevin. Sale where replevin made

(6) An execution creditor shall not have his debt satisfied out of the proceeds of the execution and distress, or of the execution only, where the tenant replevies, until the landlord who conforms to this Act has been paid the rent in arrear for the periods hereinbefore mentioned. R.S.O. 1950, c. 106, s. 180. Priority of landlord's claim

PARTNERSHIPS AND SPECIAL NAMES

182.—(1) In the case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, who reside in different divisions, or of whom one or more cannot be found, one or more of such persons may be sued or served with process, and judgment may be obtained and execution issued against him or them, notwithstanding that others jointly liable have been sued or served, without prejudice to the right of the person against whom execution issues to demand contribution from any other person jointly liable with him. One or more of persons jointly liable may be sued

(2) Where a judgment has been obtained against one or more of several partners under subsection 1 and the judge certifies that the demand proved was a partnership transaction, the bailiff may, under the execution, seize and sell the property of the firm as well as that of any defendant who has been served. Bailiff may seize property of firm on certificate of judge

(3) Two or more persons claiming or being liable as co-partners may sue or be sued in the name of the firm of which such persons were co-partners at the time the cause of action accrued. Partners sued in name of firm

(4) Where partners are sued in the name of the firm, the summons may be served on one or more of them or at the principal place in Ontario of the business of the partnership or upon any person having control of the partnership business there, and, subject to subsections 6 and 7, such Service on partners

service shall be deemed good service upon the firm, and the affidavit of the service of the summons shall state the name of the person served.

Order to
furnish
names and
addresses

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the names and addresses of the persons who are co-partners in any firm that is a party to the action by the firm name, to be furnished in such manner as the judge directs.

When
partnership
dissolved

(6) In the case of a partnership that to the knowledge of the plaintiff has been dissolved before action, the summons shall be served upon every person in Ontario sought to be made liable.

Notice of
capacity in
which person
served

(7) Where a summons is issued against a firm and is served as directed by this section, every person upon whom it is served shall be informed by notice given at the time of service whether he is served as a partner or as a person having control or management of the partnership business or in both characters, and, in default of such notice, the person served shall be deemed to be served as a partner.

Attachment
of debts
due by firm

(8) Debts owing from a firm carrying on business in Ontario may be attached although one or more members of the firm may be resident out of Ontario, if some person having the control or management of the partnership business or a member of the firm in Ontario is served with the attaching order. R.S.O. 1950, c. 106, s. 181.

Execution
against
partners

183.—(1) Where a judgment is against a firm, execution may, subject to section 184, issue against the property of,

- (a) the partnership;
- (b) any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;
- (c) any person who has been individually served as a partner with a copy of the summons and who has not filed a notice of dispute or defence.

Leave to
issue
execution
against
other
members

(2) If the party who has obtained a judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply for leave to do so, and the judge may give such leave if the liability is not disputed, or, if disputed, after the liability has been determined in such manner as he directs. R.S.O. 1950, c. 106, s. 182.

184. Except as against the property of the partnership, a judgment against a firm does not render liable, release, or otherwise affect any member thereof who was out of Ontario when the summons was issued and who has not entered a defence to the action, unless he has been made a party under section 85 or has been served in Ontario after the summons was issued. R.S.O. 1950, c. 106, s. 183.

185.—(1) Subject to *The Partnerships Registration Act*, a person, whether or not a British subject and whether residing in or out of Ontario, carrying on business in Ontario under a name or style other than his own name may sue and be sued in such name or style.

Effect of
judgment
against firm

Persons
carrying on
business in
Ontario
under
another
name
R.S.O. 1960,
c. 289

(2) Leave is not necessary to issue the summons.

Leave not
required

(3) The summons may be served upon the person so carrying on business if he is in Ontario, or at his place of business in Ontario, or, if there are several such places, at the place in or nearest to the county in which the cause of action arose, upon any person having the control or management of the business there, and such service is equivalent to personal service on the person so sued.

Service of
summons

(4) The person upon whom the summons is served shall be informed by notice given at the time of service whether he is served as the person carrying on the business or as the person having the control or management of it or in both characters, and in default of such notice he shall be deemed to be served as the person carrying on the business.

Notice of
character in
which person
served

(5) A party may, at any time before or after judgment, apply for an order directing a statement of the name and address of the person who is, and of the person who at the time of the accruing of the cause of action was, carrying on business under such name or style, to be furnished in such manner as the judge directs.

Procuring
name and
address of
person
carrying on
business

(6) The person so sued shall enter a dispute in his own name, but all subsequent proceedings shall continue in such name or style.

Person
served to
appear in his
own name

(7) A person served as the person carrying on the business may enter a defence under protest, denying that he is the person so carrying on the business, but such defence does not preclude the plaintiff from otherwise serving the person sued or from obtaining judgment in default of defence in the ordinary form by the person so sued.

Defence
under
protest

When person
served is not
carrying on
the business

(8) Where a summons is served under subsection 3 on a person having the control or management of but not carrying on the business, a dispute by him is not necessary.

Enforcement
of judgment,
what proper-
ty exigible

(9) A judgment or order in the action may be enforced by execution against,

(a) the property of the person so sued, used or employed in or in connection with the business; and

(b) the property in Ontario of the person so sued, if he has entered a defence in the action or has been adjudged to be the person carrying on the business or has been personally served with the summons in Ontario and has failed to enter a defence.

Issuing
execution
against
person
alleged
to be carry-
ing on the
business

(10) If the person so sued has not entered a dispute or has not been personally served or has not been adjudged to be the person carrying on the business, the plaintiff may apply for leave to issue execution against the person in Ontario whom the plaintiff alleges to be the person carrying on the business, and the judge may give such leave if the liability be not disputed, or, if disputed, after the liability has been determined, in such manner as the judge directs. R.S.O. 1950, c. 106, s. 184.

JURIES

When a
jury may
be required

186.—(1) Either party may require a jury in any class of action where the amount sought to be recovered exceeds \$50.

Notice to
clerk

(2) Where the plaintiff requires a jury, he shall give notice thereof to the clerk one week before the sittings of the court at which the action is to be tried, and deposit with him the proper fees for the expenses attending the summoning of the jury and, where a claimant or a defendant requires a jury, he shall, within five days after the day of service of the summons on him, give to the clerk the like notice and deposit with him the proper fees, and thereupon, in either case, a jury shall be summoned.

When action
transferred

(3) In an action transferred from one court to another, either party may require a jury to be summoned by giving to the clerk of the court to which the action has been transferred, three clear days before the sittings of the court at which the case is to be tried, a notice requiring a jury to be summoned, and depositing with him the proper fees for the expenses attending the summoning of the jury. R.S.O. 1950, c. 106, s. 185.

187.—(1) Unless exempted by *The Jurors Act*, every person whose name appears on the last revised voters' list of a municipality partly or wholly within the division, and who resides therein, and whose name is marked "J", is liable to serve as a juror for the court of such division. Who liable to be jurors R.S.O. 1960, c. 199

(2) The jurors shall be residents of the division and shall be selected from the last revised voters' list of the municipalities partly or wholly within the division. From whom selected

(3) Where there has been no previous selection of jurors, the manner of selecting them shall be as follows: Manner of selection

1. The clerk shall begin with the name of the first qualified person on the list of the municipality and proceed with the selection by taking the names in rotation until the requisite number has been selected.
2. Where there are several municipalities, the clerk shall begin with the name of the first qualified person on the list of the municipality in which the court is held, taking one name from the list, and then shall take one name from each of the lists of the other municipalities in rotation, beginning with the list that contains the greatest number of names of qualified persons, and shall repeat the same process until the requisite number has been selected.

(4) Where there has been a previous selection of jurors, the clerk shall proceed as provided by subsection 3, except that he shall begin where he left off at the next preceding selection, or, in the case of a new list, as nearly as may be at the place that corresponds with the place where he left off at the previous selection. Where there has been previous selection

(5) If it appears to the judge that the cost of summoning a jury is excessive by reason of the residences of the persons liable to be selected being in a distant part of the division, he may direct the clerk to begin with the name of the first qualified person on the list of any municipality partly or wholly within the division, and proceed as in subsection 3. Where cost of summoning excessive

(6) Where a municipality, partly or wholly within the division, is a party, and the jury would, if selected in ordinary course, be composed of ratepayers of such municipality, the judge, upon the application of a party, may direct the clerk not to select any juror from the list of such municipality, or may before or at the trial direct that the issues shall be tried and damages be assessed without a jury. Where municipality is a party

Application
of section

(7) This section does not apply in a provisional judicial district. R.S.O. 1950, c. 106, s. 186.

Summoning
jurors

188. Where a jury is required to be summoned, the clerk shall cause not less than twelve of the persons liable to serve as jurors to be summoned, and the summons shall be served at least two days before the court, either personally or by leaving it with a grown-up person at the residence of the juror, and the summons shall be returned to the clerk with an affidavit of service of the bailiff serving it. R.S.O. 1950, c. 106, s. 187.

Challenge

189. Each party is entitled to challenge two jurors peremptorily and any juror for cause. R.S.O. 1950, c. 106, s. 188.

Penalty on
jurors dis-
obeying
summons

190. A juror who, after being duly summoned, wilfully neglects or refuses to attend is liable to a fine, in the discretion of the judge, of not more than \$4, which shall be levied and collected, with costs, by the same process as a judgment recovered in the court. R.S.O. 1950, c. 106, s. 189.

Judge's list
and jury
list

191.—(1) Actions to be heard by the judge alone shall be set down in a list separate from the list of those to be tried by a jury, to be called "the judge's list" and "the jury list", and actions shall be set down in the order in which they were entered with the clerk.

Jury list to
be first

(2) The jury list shall be disposed of first, unless the judge otherwise directs. R.S.O. 1950, c. 106, s. 190.

Five jurors
to be em-
panelled,
etc.

192. Five jurors shall be empanelled and sworn to do justice between the parties whose cause they are required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and the verdict of every jury shall be unanimous. R.S.O. 1950, c. 106, s. 191.

Judge may
call *tales*

193.—(1) If the panel is exhausted, the judge may direct the clerk to summon from the body of the court a sufficient number of disinterested persons to make up a full jury, and any person so summoned may, saving all lawful exceptions and rights of challenge, act as a juror.

Judge may
order jury
to be em-
panelled

(2) Where the judge thinks it proper to have the action or any controverted fact tried by a jury, the clerk shall instantly return a jury of five disinterested persons present to try the action or controverted fact, and the judge may give judgment on the verdict of the jury. R.S.O. 1950, c. 106, s. 192.

194. If the judge is satisfied that a jury after having been out a reasonable time cannot agree upon their verdict, he may discharge them and adjourn the trial and order the clerk to summon a new jury for the next sittings, unless the parties consent that the judge may give judgment on the evidence already taken, in which case he may give judgment accordingly. R.S.O. 1950, c. 106, s. 193.

195.—(1) In all cases of trial by jury the judge has power to determine, after hearing the whole evidence or the evidence adduced on behalf of the plaintiff alone, whether there is any evidence in support of the plaintiff's case that ought to be submitted to the jury, and, if in his opinion there is no such evidence, he may then, or after verdict, if he has reserved his decision, direct a nonsuit or dismiss the action.

(2) The judge may direct the jury to answer any questions of fact stated to them by him and the jury shall answer them, and, subject to subsection 1, upon their answers the judge shall enter such judgment as in his opinion is proper.

(3) The judge shall determine the law and direct the jury thereon.

(4) When in the opinion of the judge the action is one that ought to be tried without a jury, the judge has power to direct that the action be taken out of their hands.

(5) Where in the opinion of the judge the jury notice is given for the purpose of delay, he may strike it out on a summary application. R.S.O. 1950, c. 106, s. 194.

196.—(1) The clerk shall pay every juror actually attending a sittings of a division court the sum of \$6 per day for every day on which he was necessarily absent from his place of residence for the purpose of attending the court, and the sum of 10 cents for every mile he necessarily travelled from his place of residence to the court. 1953, c. 30, s. 1.

(2) Payments made under this section shall be certified to by the judge, and the treasurer of the county, or, in the case of a provisional judicial district, the Treasurer of Ontario, shall upon presentation of the certificate pay to the clerk the amount which the certificate shows to have been paid to the jurors. R.S.O. 1950, c. 106, s. 195 (2).

Fees for
jury fund

197.—(1) There shall be paid to the clerk on every action originally entered in his court, in addition to all costs or jury fees payable,

(a) where the claim exceeds \$20 but does not exceed \$60—3 cents;

(b) where the claim exceeds \$60 but does not exceed \$100—6 cents;

(c) where the claim exceeds \$100—25 cents,

and the same shall be taxed and allowed as costs in the cause.

Return

(2) On or before the 15th day of January in every year, the clerk shall return to the treasurer of the county a statement under oath showing the number of actions originally entered in his court during the previous year, in which the claim exceeded \$20 but did not exceed \$60, the number in which the claim exceeded \$60 but did not exceed \$100, and the number in which the claim exceeded \$100.

Fees to be
paid to
county
treasurer

(3) The clerk shall, with the statement, pay over to the treasurer the fees payable under this section, and the treasurer shall keep an account of all money so received by him under the head of "Division Court Jury Fund".

Other cities
and
separated
towns

(4) In the case of cities and separated towns, the amounts paid in by the clerks and the amount paid by the county treasurer to the clerks for jury fees shall be taken into account in settling the proportion of the charges to be paid by the city or separated town towards the cost of administration of justice.

Provisional
judicial
districts

(5) This section does not apply to a provisional judicial district. R.S.O. 1950, c. 106, s. 196.

Special
provisions re
Metropolitan
Toronto

198. Notwithstanding sections 196 and 197, with respect to the division courts having jurisdiction in The Municipality of Metropolitan Toronto,

(a) the treasurer of the metropolitan municipality shall pay to the clerk of each such court the amount certified to have been paid to jurors;

(b) the clerk of each such court shall make the return mentioned in subsection 2 of section 197 to the treasurer of the metropolitan municipality and pay over to him the fees payable under section 197; and

- (c) the treasurer of the metropolitan municipality shall keep an account of all money so received by him under the head of "Division Court Jury Fund",

and subsection 4 of section 197 does not apply with respect to the metropolitan municipality and the County of York. 1954, c. 24, s. 3.

GENERAL

199.—(1) The Inspector shall,

Duties of
Inspector

- (a) make a personal inspection of every division court and of the books and papers thereof;
- (b) see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a correct manner, at a suitable time and in proper form and order, and that the papers and documents are properly classified and preserved;
- (c) see that the duties of the officers of the courts are efficiently performed and that the office is at all times duly attended by the clerk;
- (d) see that lawful fees only are taxed or allowed as costs;
- (e) see that proper security is furnished and maintained on behalf of every clerk and bailiff; and
- (f) report upon all such matters to the Lieutenant Governor. R.S.O. 1950, c. 106, s. 197 (1); 1953, c. 30, s. 2.

(2) The Inspector, with the approval of the Lieutenant Governor in Council, may delegate to any clerk or officer in his office any power or duty conferred or imposed upon the Inspector under this Act, and for such purpose every such person shall have and may exercise all the powers of the Inspector. R.S.O. 1950, c. 106, s. 197 (2).

Delegation
of authority
by Inspector

200. Where books, documents or papers have been preserved in a division court for so long that it appears they need not be preserved any longer, the judge may make an order authorizing the Inspector to cause their destruction. 1953, c. 30, s. 3.

Destruction
of
documents

Power of
Inspector
in making
inquiry into
conduct of
officers

201. Where the Inspector considers it expedient to institute an inquiry into the conduct of a clerk or bailiff, he may require him and any other person to give evidence on oath, and for that purpose he has the same power as any court has in civil cases to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents, and to give evidence. R.S.O. 1950, c. 106, s. 198.

Contempt
of court

202. Every person who wilfully insults the judge or any officer of a division court during his sitting or attendance in court, or interrupts the proceedings of the court, or creates a disturbance in the court-room or within hearing of the court, is guilty of an offence and any bailiff or officer of the court may, by direction of the judge, take the offender into custody and bring him before the judge, and the judge may impose upon him a fine of not more than \$20, and in default of immediate payment may, by warrant under his hand and seal, commit the offender to the jail of the county for a period of not more than one month, unless the fine and costs with the expense attending the commitment are sooner paid. R.S.O. 1950, c. 106, s. 199.

Resisting
officers

203.—(1) Every person who interferes with a bailiff or officer or his deputy or assistant while in the execution of his duty, or makes or attempts to rescue any property seized or attached under process of the court, is guilty of an offence and liable to a penalty of not more than \$20, to be recovered by order of the court or on summary conviction before a magistrate, and is also liable to be imprisoned, by order of the court or magistrate, for any term of not more than three months. R.S.O. 1950, c. 106, s. 200 (1), *amended*.

Arrest of
offenders

(2) The bailiff or officer, or any peace officer, may take the offender into custody, with or without warrant, and bring him before the court or magistrate. R.S.O. 1950, c. 106, s. 200 (2); 1954, c. 24, s. 4, *amended*.

Enforcing
payment
of fines

204. A fine imposed by a judge under this Act may be enforced by his order in like manner as a judgment. R.S.O. 1950, c. 106, s. 201.

Distress not
to be deemed
unlawful,
etc., by
reason of
defect in
proceedings

205. A levy or distress by virtue of this Act shall not be deemed unlawful, or the person making it be deemed a trespasser, on account of any defect or want of form in any proceeding relating thereto, nor shall the person levying or distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him,

but the person aggrieved by the irregularity may recover full satisfaction for the special damage sustained by him. R.S.O. 1950, c. 106, s. 202.

206.—(1) In cases not expressly provided for by this Act or by the rules, the judge may, in his discretion, adopt and apply the general principles of practice in the Supreme Court to actions and proceedings in the division courts. Where practice of the Supreme Court to apply

(2) Nothing in this Act authorizes the taxation or allowance of costs to any officer of the court, other than those provided for by this Act, or in the tariff of fees. R.S.O. 1950, c. 106, s. 203. Limitations as to costs

207.—(1) No proceedings shall be quashed or vacated for any matter of form. R.S.O. 1950, c. 106, s. 204. Defects in form

(2) Failure to observe any of the provisions of this Act with respect to the qualification, selection, summoning and empanelling of jurors is not a ground of impeaching the verdict or judgment in an action. 1952, c. 23, s. 2. Failure to observe jury provisions

208. Unless otherwise provided, every notice required by this Act shall be in writing. R.S.O. 1950, c. 106, s. 205. Notices to be in writing

209.—(1) Affidavits may be sworn before a clerk or deputy clerk, or before a justice of the peace, notary public or commissioner for taking affidavits. Before whom affidavits may be sworn

(2) An affidavit, sworn before the agent of the party on whose behalf it was made, or before the clerk or partner of such agent, shall not be used. R.S.O. 1950, c. 106, s. 206. Affidavits sworn before agents not to be used

210. Where a change in the date of a hearing or other proceeding is necessary because of failure to effect service or for any other reason, the clerk may change the date or dates appearing in a summons, judgment summons, subpoena or other notice or process. R.S.O. 1950, c. 106, s. 207. Changing date in process

211.—(1) The Lieutenant Governor in Council may make rules and regulations, Rules and regulations

(a) prescribing the division courts that shall be maintained, the territorial limits of the divisions and the place within each division where the court office shall be located;

(b) prescribing fees payable to the Crown and to clerks, bailiffs, appraisers, witnesses and for any other services performed under this Act;

- (c) regulating the sittings of the courts and providing for fixing the times and places of such sittings;
- (d) prescribing the duties of clerks and bailiffs and requiring clerks to furnish to judges information regarding sittings of the court;
- (e) prescribing the returns to be made and the information to be furnished by clerks and bailiffs;
- (f) prescribing forms and providing for their use;
- (g) providing for the service of summonses and other process issued out of division courts by prepaid mail or otherwise and prescribing the manner of proving service and such other matters as may be necessary or incidental thereto;
- (h) providing for the continuation of courts where a union of counties is dissolved or a county is separated from a union of counties and for the continuation or transfer of actions and judgments therein;
- (i) prescribing and governing the security to be furnished by clerks and bailiffs for the due performance of their duties and, in connection therewith, providing for the Inspector to enter into agreements with any company authorized to carry on the business of fidelity insurance in Ontario;
- (j) regulating any matter relating to the practice and procedure of the courts, or to the duties of the officers thereof, or to the costs of proceedings therein;
- (k) respecting every matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts respecting division courts.

Territorial
limits

(2) In prescribing the territorial limits of a division, the Lieutenant Governor in Council may, where in his opinion the circumstances of the case so warrant,

- (a) include any area within the territorial limits of more than one division; and
- (b) include within the territorial limits of a division court an area in an adjoining county. R.S.O. 1950, c. 106, s. 208.

PART II

APPLICABLE ONLY TO DISTRICTS

212. Unless exempt under *The Jurors Act*, all male persons ^{Who liable to serve as jurors} between twenty-one and sixty years of age who reside in the division and who are subjects of Her Majesty by birth or ^{R.S.O. 1960, c. 199} naturalization may be summoned to serve as jurors at a division court. R.S.O. 1950, c. 106, s. 209.

213. The clerk and a justice of the peace resident in the ^{who to select jurors} division, or in case there is no justice of the peace so resident, then a justice of the peace residing in an adjoining division, shall select the persons to serve as jurors for the trial of actions required to be tried by or before a jury. R.S.O. 1950, c. 106, s. 210.

214.—(1) If the parties agree by writing signed by them ^{Parties may agree that the judge shall try any matter not over \$800} to refer causes of action, claims and demands to a judge and that he may try and determine them, the judge has power and jurisdiction so to do, if the subject matter in dispute does not exceed \$800 in amount and is otherwise within the jurisdiction of a division court.

(2) The agreement shall be in duplicate, and one of the ^{Submission to be made in duplicate} duplicates shall be filed with the judge and the other with the clerk of the court in which the action is to be tried, and the court shall thereupon have jurisdiction in respect of the matter referred.

(3) Upon the agreement being filed, the plaintiff may enter ^{Agreement may be filed and proceedings had to judgment} his claim in such division and sue out a summons thereupon as in ordinary cases, and the proceedings in the action may be conducted to judgment and execution, irrespective of the amount recovered if it does not exceed \$800, in the same manner as other actions in such court. R.S.O. 1950, c. 106, s. 211.

215.—(1) An appeal lies to the Court of Appeal from Appeal a judgment under section 214.

(2) The provisions of Part I as to appeals apply to an ^{Application of Part I} appeal under this section. R.S.O. 1950, c. 106, s. 212.

216. Upon an application for a new trial in an action ^{Service on application for new trial} wherein either party may appeal, personal service may be effected, or all papers requiring service may be delivered to the clerk of the court where the action was tried, or left at his office for the person entitled thereto, and the clerk shall forthwith send by registered mail all such papers to the person entitled to them or to his agent. R.S.O. 1950, c. 106, s. 213.

CHAPTER 111

The Dog Tax and Cattle, Sheep and Poultry
Protection Act

1. In this Act,
- Interpre-
tation
- (a) "dog" means a male or female dog;
- (b) "Minister" means the Minister of Agriculture;
- (c) "owner" of a dog includes a person who possesses or harbours a dog, and "owns" and "owned" have a corresponding meaning. R.S.O. 1950, c. 107, s. 1, cls. (a, c, e).

PART I

DOG TAX

2.—(1) Subject to section 5, an annual dog tax shall be levied in every local municipality upon every person who is assessed as owner or tenant of any land and who is in occupation thereof in respect of every dog that he owns in the municipality or that is habitually kept upon the premises for which he is assessed although the dog may be owned by some other person.

(2) Where no by-law increasing the tax has been passed by the municipality under subsection 3, the amount of the tax shall be as follows:

1. For a male dog, if only one is kept..... \$2
2. For each additional male dog..... 4
3. For a female dog, if only one is kept..... 4
4. For each additional female dog..... 6

(3) Any city, town, village or township may pass a by-law increasing the tax.

(4) Where a certificate of a veterinary surgeon is produced showing that a female dog has been spayed, such female dog shall be taxed at the same rate as a male dog.

Tax on
kennel of
pure-bred
dogs

(5) The owner of a kennel of pure-bred dogs registered in the register of The Canadian Kennel Club, Incorporated shall pay an annual tax of \$10 to the treasurer of the municipality as a tax upon the kennel, and he is not liable to pay any further tax in respect of such pure-bred dogs. R.S.O. 1950, c. 107, s. 2, *revised*.

Entry on
assessment
roll of
number
of dogs

3.—(1) The assessor shall enter upon the assessment roll opposite the name of every person assessed the number of male dogs, female dogs and spayed female dogs, respectively, for which the person is liable to be taxed.

Statement
by owner
of dogs

(2) A person when so required by the assessor shall forthwith deliver to him a statement in writing of the number of such dogs owned by him or that are habitually kept upon the premises for which he is assessed by whomsoever owned.

Offence

(3) Every assessor who fails to make all inquiry and to assess all dogs reported to him and every person who neglects or refuses to furnish the statement required by subsection 2 or who makes a false statement is guilty of an offence and on summary conviction is liable to a fine of not more than \$10.

Collection
of tax

(4) The amount payable for dog tax shall be entered upon the collector's roll and the collector shall proceed to collect it in the same manner as other municipal taxes.

Killing of
dog on
failure to
pay tax

(5) When the tax is demanded and is not paid, the person assessed may be summoned before a magistrate who may order the dog to be destroyed unless the tax and costs are paid before a time named in the order.

Powers of
constable

(6) For the purpose of carrying out such order, a constable may enter upon the premises of the owner and destroy the dog.

Offence

(7) Every collector who neglects to collect the tax or take the proceedings provided by this section before the time fixed for the return of his roll to the treasurer is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 107, s. 3.

Dog tags

4.—(1) In a municipality in which the dog tax is levied every person in each year on or before the 15th day of February or on or before such earlier or later date as is fixed by by-law of the council shall procure from the clerk or the assessor a tag for each dog in respect of which he is liable for the dog tax and shall keep the tag securely fixed on the dog at all times during the year and until he procures a tag for the

following year, except that the tag may be removed while the dog is being lawfully used for hunting deer in the bush.

(2) A fee not exceeding 25 cents may be charged for each Fee for tag tag.

(3) The tag shall bear a serial number and the year in Serial number on tag which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.

(4) Every person who fails to comply with subsection 1 Offence or who uses a tag upon a dog other than that for which it was issued is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 107, s. 4 (1-4).

(5) Where an owner of a dog applies to the clerk for a tag Duties of clerk where owner of dog has not been assessed after the assessment roll has been returned and before the collector's roll has been delivered to the collector and the clerk finds that such owner has not been assessed for the dog, the owner shall forthwith make and deliver to the clerk the statement mentioned in subsection 2 of section 3 and the clerk shall make the necessary entries in the assessment roll and in the collector's roll, but, where the owner acquired the dog after the expiration of six months of the year, he shall be charged with only one-half of the dog tax. R.S.O. 1950, c. 107, s. 4 (6).

5.—(1) By-laws may be passed by the councils of local Licensing and registration of dogs municipalities for licensing and requiring the registration of dogs and for imposing a licence fee on the owners of them with the right to impose a larger fee in the case of female dogs or for each additional dog or female dog where more than one is owned by any one person or in any one household.

(2) Where the licence fee is equal to or exceeds the dog tax Non-application of ss. 2 and 3 required to be levied by this Part, sections 2 and 3 do not apply while the by-law remains in force.

(3) On payment of the licence fee, the owner shall be furnished with a dog tag and the provisions of subsections 1 Application of section 4 and 4 of section 4 as to keeping the tag securely fixed on the dog, and subsections 2 and 3 of section 4 apply. R.S.O. 1950, c. 107, s. 5.

6.—(1) By-laws may be passed by the councils of towns, Prohibiting and regulating the running at large of dogs townships, villages and cities having a population of less than 100,000, and by boards of commissioners of police in cities having a population of not less than 100,000, for prohibiting

or regulating the running at large of dogs in the municipality or in any defined area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as is provided by the by-law.

When
deemed
running
at large

(2) For the purpose of this section, a dog shall be deemed to be running at large when found in a highway or other public place and not under the control of any person. R.S.O. 1950, c. 107, s. 6.

Penalty

7. A by-law passed under this Part may impose a fine of not more than \$50, exclusive of costs, upon every person who contravenes the by-law, and every such fine is recoverable under *The Summary Convictions Act*. R.S.O. 1950, c. 107, s. 7.

R.S.O. 1960,
c. 387

Running at
large of
dogs in
unorganized
territory

8.—(1) The Lieutenant Governor in Council may make regulations for prohibiting or regulating the running at large of dogs in territory without municipal organization or in any defined area thereof, for seizing and impounding, and for killing, whether before or after impounding, dogs running at large contrary to the regulations, and for selling dogs so impounded at such time and in such manner as may be provided in the regulations.

What
constitutes
running
at large

(2) For the purpose of this section, a dog shall be deemed to be running at large when found on public lands or in a public place and not under the control of any person.

Offence

(3) Every owner of a dog who allows it to run at large contrary to the regulations made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. 1959, c. 30, s. 1.

PART II

PROTECTION OF CATTLE, SHEEP AND POULTRY

Interpre-
tation

9. In this Part,

- (a) "cattle, sheep and poultry" includes the young of them;
- (b) "Commissioner" means the Live Stock Commissioner;
- (c) "injured" in respect of cattle, sheep or poultry means injured by wounding, worrying or pursuing, and "injuring" has a corresponding meaning. 1957, c. 30, s. 4, *part*; 1959, c. 30, s. 2.

10. Any person may kill a dog,

When dogs
may be
killed

- (a) that is found killing or injuring cattle, sheep or poultry;
- (b) that in a township or village is found between sunset and sunrise straying from the premises where the dog is habitually kept;
- (c) that is found straying at any time, and not under proper control, upon premises where cattle, sheep or poultry are habitually kept. 1957, c. 30, s. 4, *part*.

11.—(1) Whether the owner of a dog that kills or injures cattle, sheep or poultry is known or not, the local municipality in which the killing or injuring occurred is liable to the owner of the cattle, sheep or poultry for the amount of damage ascertained under section 12 and shall pay over such amount to the owner of the cattle, sheep or poultry, as the case may be, within thirty days after the owner of the cattle, sheep or poultry has filed with the clerk of the municipality an affidavit that to the best of his knowledge and belief the cattle, sheep or poultry were killed or injured by a dog other than a dog owned by him or habitually kept upon his premises. 1957, c. 30, s. 4, *part*; 1959, c. 30, s. 3 (1).

Liability
of muni-
cipality

(2) Subsection 1 does not apply,

Where
subs. 1 does
not apply

- (a) to cattle, sheep or poultry killed or injured while running at large upon a highway or unenclosed land; or
- (b) in the case of poultry, where the weight of the poultry killed or injured is less than fifty pounds; or
- (c) in the case of a township in a territorial district, where the owner of the cattle, sheep or poultry killed or injured fails to satisfy the council of the township that the killing or injuring was by dogs and not by wild animals. 1957, c. 30, s. 4, *part*.

(3) The council of a local municipality may pass a by-law providing that, where cattle, sheep or poultry are killed or injured by wild animals in the municipality, subsection 1 applies in the same manner as where cattle, sheep or poultry are killed or injured by a dog, but the council in the by-law may fix the maximum amount payable for any head of cattle or sheep so killed or injured, or for poultry of one owner killed or injured in any year, and may fix the proportion of the damages ascertained under section 13 that is payable. 1957, c. 30, s. 4, *part*; 1959, c. 30, s. 3 (2).

By-law for
damages by
wild animals

Appoint-
ment of
valuers

12.—(1) The council of every local municipality shall appoint one or more persons as valuers of cattle, sheep and poultry for the purposes of this Act. 1957, c. 30, s. 4, *part*.

Investiga-
tion and
report by
valuer

(2) Where the owner of cattle, sheep or poultry discovers that any of his cattle, sheep or poultry has been killed or injured and to the best of his knowledge and belief such killing or injuring was done by a dog other than a dog owned by him or habitually kept upon his premises, he shall immediately notify a valuer for the local municipality in which the cattle, sheep or poultry were killed or injured or the clerk of such municipality who shall forthwith notify a valuer, and such valuer shall immediately make full investigation and shall make his report in writing within ten days thereafter to the clerk of the municipality giving in detail the extent and amount of the damage and his award therefor, and he shall at the same time forward a copy of such report to the owner of the cattle, sheep or poultry. 1957, c. 30, s. 4, *part*; 1959, c. 30, s. 4 (1).

Denial of
liability

(3) Where the valuer finds evidence that to the best of his knowledge and belief shows,

- (a) that any of the cattle, sheep or poultry was not killed or injured by a dog; or
- (b) that the killing or injuring was caused by a dog owned by or habitually kept on the premises of the owner of the cattle, sheep or poultry; or
- (c) that the owner had not taken reasonable care to prevent the killing or injuring of his cattle, sheep or poultry by dogs,

the valuer shall include in his report to the clerk of the local municipality and to the owner of the cattle, sheep or poultry a statement of his belief and shall make forthwith a further report to the clerk of the municipality giving particulars of the evidence found, and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the cattle, sheep or poultry within thirty days after the filing of his affidavit with the clerk.

Damages
limited

(4) The amount of damage for which the local municipality is liable shall not include damage incurred under the circumstances set out in clause *a*, *b* or *c* of subsection 3 and for which the municipality has denied liability in accordance with subsection 3. 1959, c. 30, s. 4 (2).

(5) The owner of cattle, sheep or poultry shall not destroy or permit to be destroyed the carcass of any cattle, sheep or poultry reported killed under subsection 2 until the carcass has been seen by the valuer. Where carcass not to be destroyed

(6) If the owner of the cattle, sheep or poultry or the council is dissatisfied with the award of the valuer made under subsection 2, the owner or the council may appeal to the Commissioner who may name a valuer to make a further investigation and award, and the award of such valuer is final and conclusive as to the amount of the damage. Appeal to Commissioner

(7) Such appeal shall be made within thirty days after the making of the report of the clerk of the local municipality by its valuer and \$25 shall be deposited with the Commissioner at the time of making the appeal to be forfeited to the Crown if the award of the valuer for the local municipality is sustained on the appeal. 1957, c. 30, s. 4, *part*. Time for appeal; deposit

(8) Where there is no valuer of the local municipality or the clerk or the valuer does not discharge the duties imposed upon him by this Act, the Commissioner, on the application of the owner of any cattle, sheep or poultry killed or injured by a dog other than a dog owned by him, or habitually kept upon his premises, may name a valuer to make an investigation and an award, and the award so made is final and conclusive as to the amount of damage, and the municipality, in addition to its liability to the owner of the cattle, sheep or poultry as provided by section 11, shall forthwith pay to the Commissioner the cost of such investigation as fixed by him. 1957, c. 30, s. 4, *part*; 1959, c. 30, s. 4 (3). Where no municipal valuer

(9) A copy of the award of a valuer named by the Commissioner under subsection 8 shall be forwarded by the Commissioner as soon as practicable to the clerk of the local municipality and to the owner of the cattle, sheep or poultry. 1957, c. 30, s. 4, *part*. Copy of award of special valuer to be sent to clerk and owner

(10) No valuer appointed by a local municipality or named by the Commissioner shall make an award of an amount in respect of, Amount of damage limited

(a) a head of cattle in excess of \$250;

(b) a head of sheep in excess of \$100; or

(c) poultry of one owner, killed or injured in any year, in excess of \$1,000. 1959, c. 30, s. 4 (4).

Right of
recovery
from
owner
of dog

13. A local municipality having paid to the owner of cattle, sheep or poultry the amount of the damage ascertained under section 12 is entitled to recover the amount so paid from the owner of the dog that did the damage in any court of competent jurisdiction without proving that it was vicious or accustomed to worry cattle, sheep or poultry. 1957, c. 30, s. 4, *part*.

Proceedings
for
ascertaining
owner
of dog

14. In order to ascertain the owner of the dog that killed or injured the cattle, sheep or poultry, the clerk on the instructions of the head of the municipality may issue a subpoena calling upon the persons named therein to attend before the council, and the member of the council presiding may administer an oath to any such person and any member of the council may examine any such person upon his knowledge of the matter. 1957, c. 30, s. 4, *part*.

Apportion-
ment of
damage

15. Where it appears that the damage was caused by more dogs than one, the council may apportion the damage in such manner as is deemed just having regard to the strength, ferocity and character of such dogs. 1957, c. 30, s. 4, *part*.

Duty to
destroy
dog

16.—(1) Where the owner of a dog has knowledge that the dog has killed or injured cattle, sheep or poultry, he shall destroy the dog or cause the dog to be destroyed within forty-eight hours after acquiring such knowledge.

Failure to
destroy dog

(2) Where the owner of a dog refuses or neglects to destroy it when required so to do by subsection 1, he may be summoned before a magistrate who may order the dog to be destroyed, and for the purpose of carrying out the order a constable may enter upon the premises of the owner and destroy the dog, and the magistrate may, in addition to any other penalty provided by this Act, direct the owner of the dog to pay the costs of the proceedings and of the destruction of the dog. 1957, c. 30, s. 4, *part*.

Liability
of owner
in un-
organized
territory

17. Where in territory without municipal organization cattle, sheep or poultry are killed or injured by a dog, the owner of the dog is liable to the owner of the cattle, sheep or poultry for the amount of the damage, and it is not necessary in an action to recover the amount of such damage to prove that the dog was vicious or accustomed to worry cattle, sheep or poultry. 1957, c. 30, s. 4, *part*.

18. The times and procedures set out in this Part shall be ^{Times and} regarded as directory, and a proceeding that is in substantial ^{procedures,} directory conformity with this Part is not open to objection on the ground that it is not in strict compliance therewith. 1957, c. 30, s. 4, *part.*

19. Every person who contravenes any of the provisions ^{Offence} of this Part is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. 1957, c. 30, s. 4, *part.*

CHAPTER 112

The Dominion Courts Act

1. The Supreme Court of Canada and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the *Supreme Court Act* (Canada) and the *Exchequer Court Act* (Canada) have jurisdiction, R.S.C. 1952, cc. 259, 98

- (a) in controversies between Canada and Ontario;
- (b) in controversies between any other province of Canada in which an Act similar to this Act is in force and Ontario;
- (c) in actions or proceedings in which the parties by their pleadings have raised the question of the validity of an Act of the Parliament of Canada or of an Act of the Legislature of Ontario, when in the opinion of a judge of the court in which the same are pending the question is material, and in such case the judge shall, at the request of the parties, and may without such request if he thinks fit, order the case to be removed to the Supreme Court of Canada in order that the question may be decided. R.S.O. 1950, c. 108, s. 1.

2. Where sittings of a court created by the Parliament of Canada, or of a judge thereof, are appointed to be held in a place in which a court house is situate, such court or judge has in all respects the same authority as a judge of the Supreme Court of Ontario in regard to the use of the court house and other buildings or apartments set apart in that place for the administration of justice. Use of court house, etc., by Federal court judges R.S.O. 1950, c. 108, s. 2.

CHAPTER 113

The Dower Act

1. A widow, on the death of her husband, may tarry in his chief house for forty days after his death, within which time her dower shall be assigned her, if it has not been assigned her before, and in the meantime she shall have her reasonable maintenance, and for her dower shall be assigned to her the third part of all the lands of her husband whereof he was seized at any time during coverture, except such thereof as he was so seized of in trust for another. R.S.O. 1950, c. 109, s. 1.

Dower and
quarantine

2. A widow wrongfully deforced of dower or quarantine may recover damages for such deforcement against the deforcer. R.S.O. 1950, c. 109, s. 2.

Damages for
deforcement

3. Where a husband dies beneficially entitled to any land for an interest that does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is or is equal to an estate of inheritance in possession, other than an estate in joint tenancy, his widow is entitled to dower out of such land. R.S.O. 1950, c. 109, s. 3.

Dower out
of equitable
estates

4. Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the land if he had recovered possession of it, she is entitled to dower out of it, although her husband did not recover possession of it, but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced. R.S.O. 1950, c. 109, s. 4.

Dower where
husband had
a right
of entry

5. Dower is not recoverable out of any separate and distinct lot, tract or parcel of land that, at the time of the alienation by the husband or at the time of his death, if he died seized thereof, was in a state of nature and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation; but this does not restrict or diminish the right to have woodland assigned to the dowress under section 29, from which it is lawful for her to take firewood necessary

Land in
state of
nature

for her own use, and timber for fencing the other portions of the same lot, tract or parcel assigned to her. R.S.O. 1950, c. 109, s. 5.

Mining land **6.** No dower is recoverable out of any land that has been heretofore or is hereafter granted by the Crown as mining land in case such land is, on or after the 31st day of December, 1897, granted or conveyed to the husband of the person claiming dower and he does not die entitled thereto. R.S.O. 1950, c. 109, s. 6.

Land dedicated for streets **7.** Land dedicated by its owner for a street or public highway is not subject to any claim for dower by the wife of the person by whom it was dedicated. R.S.O. 1950, c. 109, s. 7.

Dower forfeited by elopement with adulterer **8.** Where a wife willingly leaves her husband and goes away and continues with her adulterer, she is barred forever of her action to demand her dower that she ought to have of her husband's land, unless her husband willingly and without coercion is reconciled to her and suffers her to dwell with him, in which case she is restored to her action. R.S.O. 1950, c. 109, s. 8.

Effect of bar of dower in mortgages **9.**—(1) No bar of dower contained in a mortgage or other instrument intended to have the effect of a mortgage or other security upon land operates to bar such dower to any greater extent than is necessary to give full effect to the rights of the mortgagee or grantee under such instrument.

Wife's right to dower in surplus of purchase money arising from sale under mortgage (2) Where land comprised in such mortgage or other instrument is sold under a power of sale contained therein or under any legal process, the wife of the mortgagor or grantor who has so barred her dower in such land is entitled to dower in any surplus of the purchase money arising from such sale that remains after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land from which such surplus purchase money was derived had it not been sold and, except where the mortgage or other instrument is for the purchase money of the land, the amount to which she is entitled shall be calculated on the basis of the amount realized from the sale of the land and not upon the amount realized from the sale over and above the amount of the mortgage only. R.S.O. 1950, c. 109, s. 9.

Payment of money into Court **10.**—(1) A mortgagee or other person holding any money out of which a married woman is dowable under section 9 may pay it into the Supreme Court to the credit of such married woman and the other persons interested therein.

(2) The court may, on a summary application, make such order as is deemed just for securing the right of dower of a married woman in any money out of which she is dowable. Order for securing a right of dower
R.S.O. 1950, c. 109, s. 10.

11. A widow is not entitled to take her interest in money under section 9, and, in addition thereto, a share of the money as personal estate. Widow's election
R.S.O. 1950, c. 109, s. 11.

12.—(1) A person whose wife is of unsound mind and is confined in an institution under *The Mental Hospitals Act* at the time he becomes the owner of any land may at any time while his wife is so confined sell and convey or mortgage such land, freed and discharged of any claim of his wife for dower therein. Sale, etc., free from dower R.S.O. 1960, c. 236
R.S.O. 1950, c. 109, s. 12.

(2) A person whose wife has not lived in Ontario since their marriage may sell and convey or mortgage any land freed and discharged of any claim of his wife for dower therein. Idem
1952, c. 24, s. 1.

13.—(1) An owner of land, who is married and wishes to sell or mortgage the land free from dower, may in any case where, Application to dispense with consent

(a) he and his wife are living apart; or

(b) the whereabouts of his wife is unknown; or

(c) his wife is of unsound mind and is confined as such in a hospital for mentally ill, mentally defective or epileptic persons,

apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which the owner resides or the land is situate for an order dispensing with the concurrence of his wife for the purpose of barring her dower.

(2) The judge may, by order made in a summary way, upon such evidence as to him seems proper and upon notice to be served personally, dispense with the concurrence of the wife for the purpose of barring her dower. Order

(3) Where the judge is satisfied that for any reason notice cannot be served personally, the order may be made after notice has been served upon the Public Trustee and in such other manner as the judge directs. Idem

Idem

(4) The judge may make the order without imposing any conditions or he may, unless the wife has been living apart from the husband under such circumstance as disentitle her to dower, ascertain and state in the order the value of the dower and by the order direct that the amount thereof shall be paid into court or shall remain a charge upon the land or be secured otherwise for the benefit of the wife or be paid or applied for her benefit as he deems best. 1952, c. 24, s. 2.

Conveyance
or mortgage
after order

(5) After the making of the order, a conveyance or mortgage by the owner, expressed to be free from his wife's dower, is, subject to the terms and conditions mentioned in the order, sufficient to bar her right thereto.

When agree-
ment for sale
executed by
husband or
part of pur-
chase money
retained

(6) This section extends to a case in which an agreement for sale has been made, or a conveyance executed by the husband, and part of the purchase money retained by the purchaser on account of dower or an indemnity given against such dower, and in any such case the application may be made by any person interested in the land, the purchase money retained or the indemnity.

Where wife
is an infant
or of un-
sound mind

(7) Where the wife is an infant or a person of unsound mind, notice of the application shall be served on the Official Guardian, except where such person is confined in an institution under *The Mental Hospitals Act*, in which case the notice shall be served only on the Public Trustee. R.S.O. 1950, c. 109, s. 13 (4-6).

R.S.O. 1960,
c. 236

Fee

(8) On every such application, a fee of \$5 is payable and no other fee or charge of any kind is payable in respect thereof, except that for filing the affidavits and papers the proper officer shall charge the same fees as for filing papers in other cases. R.S.O. 1950, c. 109, s. 13 (7), *amended*.

Application
where wife is
mentally ill
but not
confined in
a hospital

14.—(1) Where the jail surgeon of a county or district in which a married woman who is not confined in a hospital for the mentally ill resides and another medical practitioner to be named by the judge each certifies (Form 1) that he has personally examined such married woman and that he is of opinion that she is mentally ill and a judge of the county or district court of the county or district in which such married woman resides or a judge of the Supreme Court also certifies (Form 2) that he has personally examined such married woman and that from such examination and from the evidence adduced before him, if he thinks it expedient to hear evidence, he is of opinion that such married woman is mentally ill, the judge may make the like order as is authorized by section 13.

(2) The examination and certificates required by this section shall not be acted upon by the judge unless all are made within a period of one month, and the application shall not be entertained unless it is made within one month after the day upon which the last of such examinations took place. R.S.O. 1950, c. 109, s. 14.

15. Where a judge makes an order under section 13 or 14 with reference to a parcel of land, he may afterwards make orders in respect of other sales or mortgages by the husband on the evidence adduced on the first application and on such further evidence as satisfies him that the circumstances under which he made the original order still exist. 1952, c. 24, s. 3.

16. Where the owner of land has become bankrupt and it is sought to sell such land in order to wind up his estate and the wife of such owner will not release her dower, the trustee or assignee in bankruptcy may apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which the land is situate for an order enabling him to convey the land free from the dower of the wife, and the order may be made subject to the like conditions and upon the like proceedings as are provided for in section 13. R.S.O. 1950, c. 109, s. 16.

17.—(1) Where an owner of land, being at the time married, sells and conveys or has sold and conveyed, or mortgages or has mortgaged, the land, his wife not having joined in the conveyance or mortgage and the purchaser or mortgagee not having had notice that the grantor or mortgagor had a wife living at the time, the purchaser or mortgagee may, if any of the circumstances set out in clauses *a* to *c* of subsection 1 of section 13 existed at the time of the conveyance or mortgage, apply during the lifetime of the grantor or mortgagor to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which he resides or the land is situate, for an order enabling him to convey or mortgage the land free from the dower of the wife, and the order may be obtained subject to the like conditions and by the like proceedings as are provided by section 13. 1952, c. 24, s. 4.

(2) A person claiming under the grantee or mortgagee is entitled to apply in like manner and obtain like relief founded on the right that such grantee or mortgagee had, or, on the applicant's own interest having been acquired by purchase for value in good faith without notice, that such owner had a wife at the time of the conveyance or mortgage. R.S.O. 1950, c. 109, s. 17 (2).

Registration
of order

18.—(1) An order under any of the preceding sections may be made in duplicate or in as many parts as are necessary, and shall be signed by the judge, and may be registered in the registry office of the registry division wherein the land to which the order relates is situate, upon its production and deposit, without any proof thereof, and such registration may take place either before or after the execution of the conveyance or mortgage made in pursuance of the order.

Order may
be endorsed
on deed

(2) The order may be endorsed or written upon the conveyance or mortgage, in which case it shall be registered as part thereof.

Fee for
registration
of order

(3) For the registration of the order, including all necessary entries and certificates, the registrar is entitled to a fee of \$1, unless the order is endorsed or written upon the conveyance or mortgage, in which case no fee is payable in respect of the registration thereof.

Description
of land in
order

(4) If the order is endorsed or written upon the conveyance or mortgage, the land may be described in the order by reference to the description contained in the conveyance or mortgage. R.S.O. 1950, c. 109, s. 18.

Wife joining
in deed with-
out releasing
dower

19. Where a wife has joined or hereafter joins in a conveyance or mortgage purporting to convey or mortgage land, or has signed or signs, otherwise than as a witness, a conveyance or mortgage by which her husband conveys or mortgages or purports to convey or mortgage land, but the conveyance or mortgage contains no words purporting to release her dower or other estate or interest in the land, the conveyance or mortgage has the same effect as if it contained a bar of dower by the wife and she thereby barred her dower in the land. R.S.O. 1950, c. 109, s. 19.

Married
women
under 21
barring
dower

R.S.O. 1960,
c. 204

20. A married woman under twenty-one years of age and of sound mind may bar her dower in any land by joining with her husband in a deed or conveyance thereof to a purchaser for value or to a mortgagee, or in a transfer or charge under *The Land Titles Act*, in which deed, conveyance, transfer or charge a release or bar of her dower is contained, and she may in like manner release her dower to any person to whom such land has been previously conveyed. R.S.O. 1950, c. 109, s. 20.

Assignment
of dower
by deed

21. The dowress and the tenant of the freehold may by an instrument under their hands and seals and executed in the presence of two witnesses agree upon the assignment of

dower, or upon a yearly or gross sum of money to be paid in lieu and satisfaction of dower, and the instrument may be registered in the proper registry office by filing it or a duplicate thereof, verified by the affidavit of one of the subscribing witnesses, and entitles the dowress to hold the land so assigned to her against the assignor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in a court of competent jurisdiction the yearly or gross sum agreed to be paid to her by the tenant of the freehold, and the instrument so registered is a lien upon the land for such yearly or gross sum, and is a bar to any action or proceeding by the dowress for dower in the lands mentioned therein. R.S.O. 1950, c. 109, s. 21.

22. Every tenant in possession who is not also tenant of the freehold and who is served with a writ of summons in an action for the recovery of dower shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years improved rent of the premises in the possession of the tenant, to the person under whom he entered into possession, to be recovered by action in the Supreme Court. R.S.O. 1950, c. 109, s. 22.

23. In estimating damages for the detention of dower or the yearly value of the land for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the land by the husband or after the death of the husband shall not be taken into account, but the damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of land in the particular locality. R.S.O. 1950, c. 109, s. 23.

24. The sheriff, on receipt of a writ of assignment of dower, shall, by writing under his seal of office, appoint two resident freeholders of his county who are rated upon the assessment roll for real estate of a value not less than \$2,000 each, and each of whom would in other respects be eligible to serve as a juror between the parties named in the writ, and an Ontario land surveyor, to be commissioners to admeasure the dower, and the sheriff shall, in such writing, set out a copy of the writ, and shall name therein a day on or before which the commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them. R.S.O. 1950, c. 109, s. 24.

Death, etc.,
of com-
missioners

25. In the case of the death or refusal to act of any or all of the commissioners so appointed, the sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of any who die or refuse to act. R.S.O. 1950, c. 109, s. 25.

Oath of com-
missioners

26.—(1) Every commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an oath in the following form:

I,, do swear that I am not of kin to the plaintiff (*naming her*) or to the defendant (*naming him*), or in any way interested in the land out of which the assignment of dower is to be made by me, and that I will honestly, impartially, and to the best of my skill and ability, execute and perform the duties imposed upon me by the appointment of, Sheriff of the County of, as a Commissioner for the admeasurement of dower between the plaintiff and the defendant according to law. So help me God.

Return to
sheriff

(2) The commissioners shall annex to their report the oaths sworn by them, and return them to the sheriff. R.S.O. 1950, c. 109, s. 26.

Powers and
liabilities of
commis-
sioners

27. After taking and subscribing such affidavit, the commissioners shall, for all purposes in the fulfilment of the duties by law required of them, be considered officers of the court, and are entitled to the same immunities and protection and are subject to the same liabilities and proceedings as a sheriff in the discharge of his duty. R.S.O. 1950, c. 109, s. 27.

Attendance
of witnesses

28.—(1) If either party desires to produce a witness before the commissioners, such party may sue out a subpoena *ad testificandum* or *duces tecum* from the office in which the action was commenced, commanding the attendance of such witness at the time and place appointed by the commissioners.

Payment of
witness

(2) The person so required to attend is entitled to be paid the same fees, allowances and conduct money as if he had been subpoenaed as a witness in an ordinary action. R.S.O. 1950, c. 109, s. 28.

Duties of
commis-
sioners

29.—(1) It is the duty of the commissioners,

(a) to admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monuments, one-third of the land mentioned in the writ, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part

of the land mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on the land;

- (b) to ascertain and determine what permanent improvements have been made upon the land since the death of the plaintiff's husband, or since he alienated it to a purchaser for value, and, if it can be done, they shall award the dower out of such part of the land as does not embrace or contain such permanent improvements, but, if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted or assigned to the plaintiff in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements.

(2) If from peculiar circumstances, such as there being a mill or manufactory upon the land, the commissioners cannot make a fair and just assignment of dower by metes and bounds, they shall assess a yearly sum of money, being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon, and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the sheriff they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same. Assessment of yearly sum in lieu of dower

(3) The evidence shall be taken upon oath, which oath any one of the commissioners is hereby authorized to administer, and shall be reduced to writing and signed by the witness. Evidence on oath

(4) Such yearly sum is a lien upon the land mentioned in the writ or upon such specific portion thereof as the commissioners may direct, and it is recoverable by distress as for rent or by action against the tenant of the freehold for the time being. Recovery of sum assessed

(5) The report of the commissioners shall be in writing, signed by them and directed to the sheriff, and shall contain a full statement of their proceedings, and, where the dower is assigned by metes and bounds, shall distinctly point out and describe the metes and bounds and the posts, stones or other monuments designating the boundaries, and, for the purpose of planting and marking the posts, stones or monuments, the commissioners may, if necessary, employ chain-bearers and labourers. Report of commissioners R.S.O. 1950, c. 109, s. 29.

Return of writ and report

30. The sheriff may, in his discretion, upon the request of the commissioners, enlarge the time for making their report for not more than ten days, and he shall, within twenty-four hours after the receipt thereof, endorse thereon the day and hour of the receipt, and he shall then forthwith return the writ, together with the report and all papers annexed thereto, to the office wherein the action was commenced. R.S.O. 1950, c. 109, s. 30.

Appeal

31.—(1) Either party, within a month from the filing of the sheriff's return to the writ or within such further time as a judge of the Supreme Court allows, may appeal from the report of the commissioners to a judge in court, upon grounds apparent on the report and papers filed therewith, or may apply to set aside the same, upon other grounds verified by affidavit and set forth in the notice served. R.S.O. 1950, c. 109, s. 31 (1), *amended*.

Order thereon

(2) The court may vary or amend the report, or refer it back to the commissioners for amendment in whole or in part, with such directions as to law or fact as are deemed proper, or the court may confirm or set aside the report and may appoint three new commissioners or direct that the sheriff shall do so, and the new commissioners have the same powers and shall perform the same duties as hereinbefore set out, and the report of the new commissioners shall be treated as if no other report had been made, and shall be dealt with and proceeded upon accordingly.

Effect of report being appealed from for misconduct, etc.

(3) If the report is moved against upon the ground of misconduct or fraud on the part of the commissioners, the court may direct that they be added as parties to the proceeding, and, if wilful misconduct or fraud is established, the report may be set aside and the commissioners may be adjudged to pay to the parties injured all the costs that have been incurred in respect of proceedings rendered useless by such misconduct or fraud and all the costs of the proceeding to set aside the report.

Costs of appeal

(4) The appeal or application may be dismissed with or without costs, and the court may order the party at whose instance or on whose complaint the commissioners have been made parties to pay the commissioners their costs.

Registration of copy of report

(5) If the appeal or application is dismissed or if the report is not appealed from or moved against within the proper time, the report is thenceforth final and conclusive on all parties to the action of dower, and a copy of the report,

certified by the registrar under the seal of the court, may be registered in the proper registry office. R.S.O. 1950, c. 109, s. 31 (2-5).

32. After such registration, the plaintiff is entitled to sue out a writ directed to the proper sheriff, commanding him to put her into possession of the land assigned to her for her dower and to levy all such costs as have been awarded to her against the defendant. R.S.O. 1950, c. 109, s. 32.

When writ of possession may issue

33. The commissioners are each entitled to receive from the plaintiff the sum of \$5 for each day's attendance, not exceeding two, and the sum of 20 cents for every 100 words for drawing up their report, and may also charge 10 cents for every 100 words of each copy furnished by them to either party. R.S.O. 1950, c. 109, s. 33.

Commissioners' fees

34. The plaintiff shall pay the costs of suing out and the costs of the commissioners in executing the writ of assignment of dower and making their report, but each party shall pay his own costs of witnesses and of his counsel or solicitor attending before the commissioners. R.S.O. 1950, c. 109, s. 34.

By whom costs to be paid

FORM 1

The Dower Act

(Section 14 (1))

CERTIFICATE OF MEDICAL PRACTITIONER

I, the undersigned....., a legally qualified medical practitioner, jail surgeon of the jail of the County (or District) of..... (or as the case may be) residing and practising at..... in the County (or District) of....., do hereby certify that on the.....day of....., 19....., at.....in the County (or District) of.....I, separately from any other medical practitioner, personally examined.....of the Township of.....in the County (or District) of....., wife of....., of the Township of.....in the County (or District) of....., and I further certify that the said..... is mentally ill and that I have formed this opinion upon the following grounds, namely: (*here state the facts upon which the certificate is based*).

Signed this..... day of....., 19....., at..... in the County of.....

Witness.....

FORM 2

The Dower Act

(Section 14 (1))

CERTIFICATE OF JUDGE

Province of Ontario. }
County (or District) of..... }

I, the undersigned.....,
Judge of the County (or District) Court of the County (or District) of
....., do hereby certify that on the
day of....., 19....., I personally examined....., of the
..... of in the County (or District)
of....., wife of....., of the of in the County
(or District) of and that from such personal examination
(and from the evidence of.....and adduced before me (*if evidence
has been taken*)) I am of opinion that the said.....is mentally ill.

Signed this day of, 19....., at
..... in the County (or District) of
.....

R.S.O. 1950, c. 109, Form 2.



CHAPTER 114

The Drugless Practitioners Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Regents appointed under this Act;
- (b) "drugless practitioner" means a person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method;
- (c) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 110, s. 1.

2.—(1) The Board of Regents established under *The Drugless Practitioners Act, 1925* is continued, and shall be composed of five persons appointed by the Lieutenant Governor in Council. ^{Board of Regents 1925, c. 49}

(2) Every member of the Board shall hold office for a period of two years, but any member is eligible for re-appointment at the expiration of his term of office. ^{Term of office}

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. ^{Vacancies}

(4) The Lieutenant Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. R.S.O. 1950, c. 110, s. 2. ^{Officers}

3.—(1) The Lieutenant Governor in Council may appoint a board of directors for one or more classifications of drugless practitioners to be composed of not fewer than three and not more than five members and to be known as "The Board of Directors of (*inserting the classification or classifications*)". ^{Boards of directors}

Term of
office

(2) The members of a board of directors shall hold office for a period of two years, but any member is eligible for re-appointment at the expiration of his term of office.

Vacancies

(3) Every vacancy on a board of directors caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member.

Officers

(4) The Lieutenant Governor in Council may designate one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of a board of directors. 1952, c. 25, s. 1, *part*.

Regulations

4. The Lieutenant Governor in Council may make regulations classifying persons admitted to practice under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes. 1952, c. 25, s. 1, *part*.

Board of
Regents
replaced

5.—(1) When a board of directors has been appointed, the Board of Regents shall cease to act with respect to the classification or classifications of drugless practitioners for which the board of directors is appointed, and the provisions of this Act with respect to the Board of Regent apply *mutatis mutandis* to the board of directors so appointed.

Powers of
boards of
directors

(2) A board of directors may exercise with respect to the classification or classifications of drugless practitioners for which it is appointed all the powers that the Board of Regents would have, if the board of directors had not been appointed. 1952, c. 25, s. 1, *part*.

Regulations

6. The Board, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) for the examination and admission of drugless practitioners to practise in Ontario and for the registration of persons so admitted and prescribing the fees to be paid on examination and registration;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) for maintaining a register of persons admitted to practise and providing for the annual renewal of registration and prescribing the fee therefor;

- (d) prescribing the discipline and control of registered drugless practitioners;
- (e) for classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes;
- (f) for designating the manner in which a person registered under this Act may describe his qualification or occupation and prohibiting the use of a title, affix or prefix that in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by *The Medical Act* that in the opinion of the Board will correctly describe the qualification or occupation of such person; R.S.O. 1960,
c. 234
- (g) for the investigation of any complaint that a registered drugless practitioner has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (h) for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been ignorant or incompetent;
- (i) providing for the employment by the Board of such persons and services as may be required and for the payment of such persons and for such services;
- (j) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board;
- (k) providing for the investment of the surplus revenue of the Board;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 110, s. 3.

Act does not
authorize
practice of
medicine

7. Nothing in this Act or the regulations authorizes a person, not being so expressly authorized under a general or special Act of the Legislature, to prescribe or administer drugs for use internally or externally or to use or direct or prescribe the use of anaesthetics for any purpose whatsoever or to practise surgery or midwifery. R.S.O. 1950, c. 110, s. 4.

Penalty
for un-
authorized
practice

8. Every person who, not being registered as a drugless practitioner under this Act or, who having been so registered, whose registration has been cancelled or is under suspension, practises or holds himself out as practising as a drugless practitioner within the meaning of this Act, or who advertises or uses or affixes any prefix to his name signifying that he is qualified to practise as a drugless practitioner within the meaning of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 and on summary conviction for a subsequent offence within a period of two years after the first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1950, c. 110, s. 5.

Proof of
registration

9.—(1) In all cases where proof of registration under this Act is required, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, is sufficient evidence of all persons who are registered practitioners in lieu of the production of the original register, and any certificate upon such printed or other copy of the register purporting to be signed by a person in his capacity as secretary-treasurer of the Board under this Act is *prima facie* evidence that such person is the secretary-treasurer without any proof of his signature or of his being in fact the secretary-treasurer.

Evidence
of non-
registration

(2) The absence of the name of a person from such copy is *prima facie* evidence that such person is not registered under this Act.

Omission of
name from
copy

(3) In the case of a person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of such person on the register is evidence that such person is registered under this Act. R.S.O. 1950, c. 110, s. 6.

Saving

10. Nothing in this Act applies to or affects,

(a) the practice of any profession or calling by any person practising it under any general or special Act of the Legislature;

- (b) any nurse acting in the absence of, or under the prescription or direction of, a legally qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1950, c. 110, s. 7.

11. Nothing in this Act or the regulations shall be taken or deemed to relieve any person from complying with *The Public Health Act*, *The Vaccination Act* or *The Vital Statistics Act* or from any legal duty to provide for the treatment of any person by a legally qualified medical practitioner. R.S.O. 1950, c. 110, s. 8.

Compliance with other statutes not affected
R.S.O. 1960, cc. 321, 412, 419

CHAPTER 115

The Edible Oil Products Act

1. In this Act,

Interpre-
tation

- (a) “analyst” means an analyst appointed under this Act;
- (b) “dairy product” means milk, cream, butter, cheese, condensed milk, evaporated milk, milk powder, dry milk, ice cream, malted milk, sherbet, or any other product manufactured wholly or mainly from milk that contains no fat or oil other than that of milk;
- (c) “edible oil product” means a food substance, other than a dairy product, of whatever origin, source or composition that is manufactured for human consumption wholly or in part from a fat or oil other than that of milk;
- (d) “inspector” means an inspector appointed under this Act;
- (e) “Minister” means the Minister of Agriculture;
- (f) “regulations” means the regulations made under this Act. 1952, c. 26, s. 1; 1953, c. 31, s. 1.

2. Subject to section 4, this Act applies to every edible oil product and class of edible oil product designated in the regulations. 1952, c. 26, s. 2; 1953, c. 31, s. 2.

3.—(1) No person shall manufacture or sell an edible oil product, other than oleomargarine, manufactured by any process by which fat or oil other than that of milk has been added to or mixed or blended with a dairy product in such manner that the resultant edible oil product is an imitation of or resembles a dairy product.

Manufacture
and sale of
certain
edible oil
products
prohibited

(2) Subsection 1 does not prevent the use of chocolate or cocoa or any flavouring preparation that contains fat or oil other than that of milk when used for the purpose of flavouring

Flavouring
exempted

a dairy product so long only as such fat or oil does not exceed one-half of 1 per cent by weight of the dairy product. 1953, c. 31, s. 3.

Licence

4. No person shall manufacture or sell by wholesale an edible oil product to which this Act applies without a licence therefor from the Minister. 1952, c. 26, s. 3.

Sale of
edible oil
products

5. No person shall offer for sale or sell by wholesale or retail an edible oil product to which this Act applies that does not comply with this Act and the regulations. 1952, c. 26, s. 4.

Inspectors
and
analysts

6.—(1) The Lieutenant Governor in Council may appoint such inspectors and analysts as are deemed necessary for the administration and enforcement of this Act and the regulations.

Obstruction
of inspector

(2) No person shall obstruct an inspector in the performance of his duties or furnish an inspector with false information. 1952, c. 26, s. 5.

Regulations

7. The Lieutenant Governor in Council may make regulations,

- (a) designating the edible oil products or classes of edible oil products to which this Act applies;
- (b) providing for the issue of licences to manufacturers and wholesalers of any edible oil product and prescribing the form, terms and conditions thereof and the fees to be paid therefor, and providing for the renewal, suspension and cancellation thereof;
- (c) prescribing the standards of quality for and the composition of any edible oil product or class of edible oil product;
- (d) providing for the detention and confiscation of any edible oil product that does not comply with this Act and the regulations;
- (e) respecting the advertising and the labelling of containers of any edible oil product or class of edible oil product;
- (f) prescribing the powers and duties of inspectors and analysts;

- (g) prescribing the records to be kept by manufacturers and wholesalers of any edible oil product;
- (h) exempting any manufacturer or wholesaler from this Act and the regulations;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 26, s. 6.

8. Every person who contravenes any provision of this ^{Offence} Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each offence. 1952, c. 26, s. 7.

CHAPTER 116

The Egress from Public Buildings Act

1. In every church, school, hall, house or other building used for holding public meetings or as a place of public resort or amusement, every outer door and every door leading from every assembly room or school room shall be hinged so that it will open outwards freely, and every gate of an outer fence, if not so hinged, shall be kept open by proper fastenings during the time the building is used for public purposes, in order to facilitate the egress of the public in case of alarm from fire or other cause. R.S.O. 1950, c. 111, s. 1.

Doors of
public
buildings
to open
outwards

2. Every congregation or society possessing corporate powers, and every trustee, incumbent, churchwarden or other person holding churches, schools or buildings used for churches or schools are severally liable, as trustees for such societies, congregations or schools, to the provisions of this Act. R.S.O. 1950, c. 111, s. 2.

Liability of
ecclesiastical
or other
bodies with
corporate
powers

3.—(1) Every person who owns, possesses or manages a church, school, hall, house or other building used for holding public meetings or as a place of public resort or amusement who contravenes any of the provisions of this Act or the regulations made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$50.

Offence

(2) If any changes necessary to comply with this Act and the regulations made under this Act are not made, the person offending is liable to a further fine of \$5 for every week succeeding that in which the information is laid.

Further
penalty
for delay

(3) One-half of the fine shall be paid to the person laying the information and the other half to the municipality in which the offence was committed. R.S.O. 1950, c. 111, s. 3, *amended*.

Application
of fine

4. The Lieutenant Governor in Council may make regulations for the enforcement of this Act and the safety and convenience of persons assembled in buildings coming within this Act. R.S.O. 1950, c. 111, s. 4.

Regulations

CHAPTER 117

The Elderly Persons' Housing Aid Act

1. The Minister of Public Welfare may grant aid to any limited-dividend housing corporation incorporated by or on behalf of a municipality or approved by a municipality that has had a loan made to it under the *National Housing Act* (Canada) to assist it in any project for the construction and equipment of low rental housing units for elderly persons. 1952, c. 27, s. 1; 1953, c. 32, s. 1.

2. The amount of such a grant shall be calculated at the rate of \$500 for each dwelling unit or 50 per cent of the capital cost of the project, exclusive of that part of the capital cost of the project that is financed by way of loan under the *National Housing Act* (Canada), whichever is the lesser. 1952, c. 27, s. 2; 1953, c. 32, s. 2.

3. Grants under this Act shall be paid out of the Consolidated Revenue Fund. 1952, c. 27, s. 3.

4. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the terms and conditions upon which and the manner in which aid may be granted under this Act;
- (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 27, s. 4.

CHAPTER 118

The Election Act

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) “advance poll” means a poll held under section 77;
- (b) “agent” when used in relation to a candidate includes a scrutineer appointed by the candidate;
- (c) “board” means an election board as constituted under this Act for a county or provisional judicial district;
- (d) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the day of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (e) “corrupt practice” means bribery and any act declared to be a corrupt practice by this or any other Act of the Legislature or recognized as such by the common law of Parliament;
- (f) “county” includes a district;
- (g) “county court” includes a district court;
- (h) “election court” means a court constituted under *The Controverted Elections Act* for the trial of a petition or a summary trial court constituted under that Act; R.S.O. 1960, c. 65
- (i) “electoral district” means any place or territorial area designated as an electoral district by *The Representation Act*; R.S.O. 1960, c. 353
- (j) “local municipality” means a city, town, village or township;

- (*k*) "mariner" means a man or woman who is serving in Her Majesty's naval forces or is serving in any capacity on a mercantile vessel registered at any port in the Commonwealth at the time of the issue of the writ for a provincial election;
- (*l*) "oath" includes an affirmation and a statutory declaration;
- (*m*) "official agent" means the agent appointed by a candidate under section 187;
- (*n*) "polling list" means the list of voters furnished to a deputy returning officer by the returning officer in accordance with this Act;
- (*o*) "polling subdivision" means,
 - (i) in a municipality, a polling subdivision prescribed by the council of the municipality or by the returning officer under section 44, and
 - (ii) in territory without municipal organization, a division, subdivision, district, subdistrict or other territorial area fixed by the board for which a list of voters is to be prepared and for which one or more polling places are to be established for the taking of the vote at the election;
- (*p*) "prescribed" means prescribed by this Act or by the regulations;
- (*q*) "regulations" means the regulations made under this Act;
- (*r*) "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - 1. The place where a person's family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.

2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
 3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied only during some or all of the months of May to October and generally remain unoccupied during some or all of the months of November to April unless,
 - a. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
 - b. he has no quarters in any other electoral district to which he might at will remove;
- (*s*) "rural polling subdivision" means a polling subdivision no part of which is,
- (i) within a city, town, village or improvement district having a population of at least 5,000,
 - (ii) within a township having a population of at least 10,000, or
 - (iii) within a township adjacent to a city having a population of at least 100,000,
- according to the last Federal census;
- (*t*) "urban polling subdivision" means a polling subdivision that is wholly,
- (i) within a city, town, village or improvement district having a population of at least 5,000,
 - (ii) within a township having a population of at least 10,000, or
 - (iii) within a township adjacent to a city having a population of at least 100,000,

according to the last Federal census. 1951, c. 21, s. 1, cls. (*a-i*, *k-u*), *amended*.

ELECTION BOARDS

Board for every county and district **2.—(1)** There shall be an election board in and for every county and provisional judicial district.

Disqualification for election (2) No person who is a member of the board or who has been engaged as a revising officer in the preparation of the lists of voters to be used at the election is eligible as a candidate at the election. 1951, c. 21, s. 2.

Composition of boards: York **3.—(1)** In the county of York, the board shall be composed of the judges of the county court.

other counties and districts (2) In every other county and provisional judicial district, the board shall be composed of five members as follows: the judge and junior judge of the county or district court, the local registrar of the Supreme Court, the sheriff of the county or district, the clerk of the peace, and, where there is no junior judge of the county or district court, the local master of the Supreme Court, or, where the local master is also the judge of the county or district court, the registrar of deeds, and, where there are more registry divisions than one in the county or district, such one of the registrars of deeds as is designated by the other members of the board.

City to be part of county or district (3) For the purposes of this section, every city forms part of the county or district in which it is situate, and the board has jurisdiction accordingly.

When deputy registrar to act (4) Where there is no local registrar of the Supreme Court, the deputy local registrar of the Supreme Court is a member of the board.

Chairman (5) The judge of the county or district of the county or district, or in his absence, or in case of his inability to act, or in case of a vacancy in his office, the junior judge, or acting judge of the county or district court, is chairman of the board.

Vacancy in chairman-ship (6) Where the judge or junior or acting judge is unable to act and, on account of illness or absence, there is no other person to act in his place, he may appoint in writing some other member of the board as chairman *pro tempore* or, if he is unable or neglects to do so, the other members of the board may elect a chairman from among themselves.

Clerk of board (7) The board shall appoint one of their own number or some other person to act as clerk of the board.

(8) Every member of the board and the clerk before performing any duties of the office shall take an oath before a commissioner for taking affidavits or a justice of the peace to faithfully and impartially perform his duties. Oath of office

(9) Three members of the board form a quorum. Quorum

(10) Where there is a vacancy in the membership of the board and there is no official to fill the vacancy or where the number of officials mentioned in subsection 2 is not sufficient to complete the board, the board may appoint some fit and proper person, or a sufficient number of such persons, to complete the membership of the board. Vacancies

(11) Where an electoral district includes parts of two or more counties or districts, it shall, for the purposes of this Act, be deemed to form part of the county or district in which its greater part is situate. 1951, c. 21, s. 3. Electoral district containing territory in more than one county or district

CHIEF ELECTION OFFICER

4.—(1) The Lieutenant Governor in Council shall appoint a person being a barrister and employed in the public service of Ontario to be Chief Election Officer, and may appoint another person possessing like qualifications to be Assistant Chief Election Officer. Appointment of C.E.O. and A.C.E.O.

(2) It is the duty of the Chief Election Officer to consult with and advise the boards throughout the Province, and to supervise and instruct the returning officers, deputy returning officers and poll clerks in the performance of their duties, and, where necessary, to personally visit and consult with the chairman of the board or the returning officer with a view to facilitating the preparation of the lists and the carrying out of this Act. Powers and duties of C.E.O.

(3) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer may act in his place, and, while so acting, possesses the like powers and shall perform the like duties as the Chief Election Officer. Powers and duties of A.C.E.O.

(4) In cases of emergency for which no provision is made, the Chief Election Officer may give such directions as he deems proper and anything done in compliance with such directions is not open to question, but the Chief Election Officer shall immediately give notice of any direction so given by him to any candidate or proposed candidate whom he thinks may be affected by such direction. 1951, c. 21, s. 5. In cases of emergency

Clerical
assistance

5. The Chief Election Officer may provide for such clerical and other assistance as is necessary in the performance of his duties, and the Lieutenant Governor in Council may authorize the issue of accountable warrants from time to time for payment of travelling and other expenses and for remuneration of such officers and of persons employed in the office of the Chief Election Officer. 1951, c. 21, s. 6.

EFFECT OF IRREGULARITIES

Irregularities
not affecting
result

6.—(1) No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes, or as to limitations of time; or
- (d) by reason of any mistake in the use of the forms to this Act,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act, and that the irregularity, failure, non-compliance or mistake did not affect the result of the election.

Irregularities
in assess-
ment roll
or voters'
list
R.S.O. 1960,
c. 65

(2) An irregularity in the preparation or revision of any assessment roll or list of voters is not a ground for questioning the validity of an election or a return under *The Controverted Elections Act*, or otherwise. 1951, c. 21, s. 7.

ELECTION INTERRUPTED

When
election or
polling is not
commenced
or is
interrupted

7. If by reason of riot or other emergency a nomination meeting or the voting at a polling place is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election or polling on the following day at 1 p.m., in the case of a nomination meeting, and at 8 a.m., in the case of a polling, and continue the same from day to day, if necessary, until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eleven hours in all. 1951, c. 21, s. 8.

OATHS OR AFFIDAVITS

8.—(1) Except where otherwise provided, any oath for ^{Who may} the purposes of this Act may be sworn before a justice of the ^{take} ^{affidavits} peace, a commissioner for taking affidavits or a notary public.

(2) Returning officers and election clerks have power to ^{Oaths, who} administer any oath required by this Act, and deputy re-^{to} ^{administer} turning officers and poll clerks may administer any oath except any oath to be administered to the returning officer.

(3) Every person administering an oath under or for the ^{No charge} purposes of this Act shall administer the oath gratuitously. ^{for} ^{administer-} ^{ing oaths} 1951, c. 21, s. 9.

AGENTS

9. A person who is disqualified and incompetent to vote ^{Certain} under section 14, or who within eight years has been found ^{persons} guilty by a competent tribunal of a corrupt practice or re-^{disqualified} ^{from acting} ^{as agents} ported for a corrupt practice by an election court, shall not act as agent for a candidate at an election, and every person contravening this provision is liable to the same penalty as if he had voted at the election. 1951, c. 21, s. 10.

10. A candidate may himself undertake any of the duties ^{Right of} that his agent, except his official agent, might have under-^{candidates} taken, if appointed, or may assist his agent in the performance ^{to under-} ^{take duties} of such duties, and may be present at any place at which his ^{of agent} agent may attend in pursuance of this Act, except at the marking of a ballot under section 89. 1951, c. 21, s. 11.

11. Where expressions are used in this Act that require or ^{Non-} authorize any act to be done in the presence of the agents of ^{attendance} the candidates, the non-attendance of any agent does not ^{of agents} invalidate the act done. 1951, c. 21, s. 12.

PERSON NOMINATED WITHOUT CONSENT

12. Nothing in this Act imposes any liability upon a ^{Non-} person nominated as a candidate or declared to be a candidate ^{liability} by others without his consent, unless he has afterwards given ^{of person} his assent to the nomination or declaration, or has been elected. ^{nominated} ^{without} ^{consent} 1951, c. 21, s. 13.

QUALIFICATION OF CANDIDATE

Who may
be candidateR.S.O. 1960,
c. 208

13. Any person of the full age of twenty-one years and a British subject by birth or naturalization who has resided in Ontario for the twelve months next preceding the day of polling and who is not disqualified by *The Legislative Assembly Act* or by any other Act is qualified to be a candidate. 1951, c. 21, s. 14.

QUALIFICATION OF VOTERS

WHO SHALL NOT VOTE

Who dis-
qualified
from voting

14.—(1) Judges of the Federal and Provincial courts, clerks of the peace, Crown attorneys and magistrates are disqualified and incompetent to vote.

Penalty

(2) Any person mentioned in subsection 1 who votes is liable to a penalty of \$2,000. 1951, c. 21, s. 15, *amended*.

Dis-
qualification
of certain
officers

15. No returning officer or election clerk is entitled to vote, but this provision does not affect the duty of the returning officer to give a casting vote. 1951, c. 21, s. 16 (1).

Dis-
qualification
of convicts,
mentally ill
persons, etc.

16. No person is entitled to be entered on the list of voters, or shall vote, who is a prisoner in a penal or reform institution undergoing punishment for a criminal offence, or who is a patient in a mental hospital. 1951, c. 21, s. 17; 1954, c. 25, s. 3.

WHO MAY VOTE

Who may
vote

17.—(1) Subject to the provisions hereinafter contained, in any electoral district in which an election to the Assembly is held, the following persons, being entered on the proper polling list, and no others, are entitled to vote at such election:

Generally

1. Every man and every woman who, at the time of voting,
 - (a) is of the full age of twenty-one years;
 - (b) is a British subject;
 - (c) is not disqualified under this Act or otherwise prohibited by law from voting;
 - (d) has resided in Ontario for the twelve months next preceding the day of polling; and
 - (e) resided in the electoral district at the date of the issue of the writ of election.

2. Every man and every woman who, at the time of ^{Disabled soldiers' franchise} voting,

(a) is a British subject;

(b) is not qualified to vote under paragraph 1;

(c) is not disqualified under this Act or otherwise prohibited by law from voting,

whether or not he or she has attained the age of twenty-one years, and who,

(d) has served or is serving as a member of the Canadian Forces within the meaning of the *National Defence Act* (Canada) or the armed ^{R.S.C. 1952, c. 184} forces of any part of the Commonwealth or any ally thereof; and

(e) is an inmate or patient or is employed and resident,

(i) in a hospital or institution situated in the electoral district for the reception, treatment or vocational training of persons who have served or are serving as members of any of the forces mentioned in clause *d*, or

(ii) in a hospital or institution for the blind or deaf or a charitable institution situated in the electoral district,

and there shall be entered on every list prepared under this Act opposite the name of any person so qualified, the letters "D.S.F." (Disabled Soldiers' Franchise). 1951, c. 21, s. 18; 1954, c. 25, s. 4 (1), *amended*.

(2) For the purposes of this section, a statutory declaration ^{Evidence of facts} *prima facie* by a person claiming to be a British subject is evidence of the facts declared to. 1954, c. 25, s. 4 (2).

CHANGE OF RESIDENCE WITHIN TWO MONTHS OF POLLING

18.—(1) Notwithstanding section 17, a person who was a ^{Removal from one electoral district to another} resident in, and is entered on the list prepared for a polling subdivision or polling place in, an electoral district or who would have been entitled to be so entered had he remained a

resident in such electoral district and who has moved from such electoral district in the course of his ordinary profession, occupation or calling and has become a resident of another electoral district, and any person ordinarily resident with the first-mentioned person as a member of his family or household who has so moved with the first-mentioned person, are entitled to be entered on the list of voters in the last-mentioned electoral district by the revising officer, or by the judge, as the case may be, upon filing with the revising officer or judge an affidavit (Form 1) and producing such other evidence that he was so entered or entitled to be so entered and that such move was solely for the purpose of carrying on such profession, occupation or calling, as the revising officer or judge deems necessary.

Certificate (2) The revising officer or judge shall give a certificate in writing (Form 2) to every person entered on the list under subsection 1.

Entry after name of person so added (3) The revising officer or judge shall write "entered under *The Election Act*, section 18" after the name of every person entered on the list under subsection 1.

Production of certificate at poll (4) A person whose name is entered on the list under this section is not entitled to vote unless at the time of tendering his vote he produces to the deputy returning officer the certificate mentioned in subsection 2. 1951, c. 21, s. 19.

PROCEEDINGS PRELIMINARY TO ELECTION

DATES FOR NOMINATION AND POLLING

Nomination day **19.**—(1) Where an election is to be held, the Lieutenant Governor in Council may appoint a day for the nomination of candidates, which day shall be,

(a) not more than sixty and not less than twenty-three days after the date of the writs of election where the nomination day appointed is in the months from April to October inclusive; or

(b) not more than sixty and not less than thirty days after the date of the writs of election where the nomination day appointed is in the months from November to March inclusive.

Polling day (2) The fourteenth day after nomination day shall be the day on which polling shall take place where a poll is granted. 1954, c. 25, s. 6.

(3) In the case of a general election, the nominations shall be held on the same day for all electoral districts and the respective days for the nomination and for the polling shall be stated in the proclamation for the election. Date to be same in all electoral districts

(4) The writs for a general election shall be dated on the same day. Writs to bear same date

(5) A writ of election shall state the respective days for the nomination and for the polling, and need not name a return day, but is returnable forthwith after the execution thereof. Writs to state nomination and polling days
1951, c. 21, s. 23 (3-5).

20.—(1) In the case of a general election, the Chief Election Officer shall, when so directed by the Lieutenant Governor in Council, take the vote of members of the Canadian Forces whose declared residence under *The Canadian Forces Voting Regulations* is in Ontario by a method as near as circumstances permit to that provided in such regulations in force on the 1st day of January, 1955. Canadian Forces vote

(2) Where a vote is directed to be taken under subsection 1, Idem no member of the Canadian Forces shall vote other than by the method provided by this section. 1955, c. 19, s. 1.

SUPPLIES

21.—(1) Before every election, the Chief Election Officer shall cause to be printed in conspicuous characters a notice as to secrecy (Form 4) and shall transmit by post to the returning officer of every electoral district such number of copies as he deems sufficient to supply every deputy returning officer with five copies, and every deputy returning officer shall post up one copy in a conspicuous place outside his polling place and one copy in a conspicuous place within his polling place, and he shall see that they remain so posted up from the opening to the close of the poll. Notice as to secrecy

(2) The notice may be separate or added to the directions for the guidance of voters in voting (Form 3). Notice may be separate

(3) The Chief Election Officer shall also procure from the Queen's Printer the forms, other than the proclamation of the nomination, prescribed by this Act or by Part III of *The Voters' Lists Act* for each electoral district in sufficient number for the requirements of the election, the label mentioned in subsection 2 of section 135 and such stationery as is necessary and shall send the same to the returning officer forthwith after the issue of the writ. 1951, c. 21, s. 25. Supply of forms by Queen's Printer R.S.O. 1960 c. 420

Supply of
poll books
and forms

22. Immediately after the issue of the writ, the Chief Election Officer shall supply the returning officer with a sufficient number of blank poll books (Form 5) for the purposes of the election having regard to the number of polling places within the electoral district, containing the following blank forms:

1. Commission of deputy returning officer.
2. Oath of deputy returning officer.
3. Commission of poll clerk.
4. Oath of poll clerk.
5. Oath of secrecy.
6. Schedule for "Notes of objections" to ballot papers under section 104.
7. Statement of the poll after counting the ballot papers.
8. Ballot paper account.
9. Oath of deputy returning officer after closing the poll.
10. Oath of poll clerk after closing the poll.
11. Certificate of returning officer for outside voters.

1951, c. 21, s. 26.

Transmission
of copies
of this Act

23. There shall be transmitted to the returning officer with the writ of election such number of copies of this Act and of any Acts amending the same as will be sufficient to supply him and each deputy returning officer with at least one copy, and every copy shall contain an alphabetical index. 1951, c. 21, s. 27.

RETURNING OFFICERS

Appointment
of R.O.

24.—(1) The Lieutenant Governor in Council may at any time appoint a returning officer for any electoral district who shall hold office until he has completed the work of the general election next following his appointment.

Idem

(2) Every person appointed a returning officer under subsection 1 shall be a British subject, of the full age of twenty-one years, and resident in Ontario.

Refusal or
incapacity
to act

(3) If the person appointed returning officer under subsection 1 dies, or refuses to act, or is absent or incapacitated, or is unable from any cause to act, the Lieutenant Governor in Council may appoint some other person to be returning officer.

Notification
of appoint-
ment

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act and *The Voters' Lists Act*.

(5) Every returning officer immediately upon receiving ^{Oath of R.O.} notice of his appointment shall take and subscribe the oath (Form 6), and every returning officer who refuses or neglects to take and subscribe the oath is liable to a penalty of \$40.

(6) Every returning officer on receiving a writ for an election ^{Endorsement on writ} shall endorse thereon the date of its receipt.

(7) If a writ for an election has been issued to a person ^{Where appointment is subsequently superseeded} in whose stead a returning officer has been appointed under subsection 3, a new writ may be issued or the new returning officer may act under the writ already issued as if it had been addressed to him, and the validity of the proceedings had or taken under the first appointment is not affected by the new appointment, but the new returning officer may appoint a new election clerk and new deputy returning officers, if he thinks fit, in the place of the persons, if any, appointed to such offices by the person previously named returning officer. 1954, c. 25, s. 8.

25.—(1) The following persons shall not be appointed or ^{Persons excluded from being returning officers, etc.} act as a returning officer, deputy returning officer, election clerk or poll clerk:

1. Members of the Executive Council.
2. Members of the Parliament of Canada or of the Assembly.
3. Ministers, priests or ecclesiastics under any form or profession of religious faith or worship.
4. Judges of Federal or Provincial courts.
5. Persons who have served as members of the Assembly in the session next preceding the election, or in the then present session, if the election takes place during a session of the Assembly.
6. Persons who have at any time been found guilty by a competent tribunal of or reported by an election court for corrupt practices.

(2) Every such person who acts as a returning officer, ^{Penalty} deputy returning officer, election clerk or poll clerk is liable to a penalty of \$200.

(3) A contravention of this section does not affect the ^{Validity of election not affected} validity of the election. 1951, c. 21, s. 32.

Exempted
persons

26. The following persons are not obliged to act as a returning officer, deputy returning officer, election clerk or poll clerk:

1. Physicians and surgeons.
2. Postmasters.
3. Persons sixty years of age or more.
4. Persons who have previously served as returning officers. 1951, c. 21, s. 33.

Penalty for
refusal to act

27. Every person not disqualified by this Act who refuses to perform the duties of returning officer after having received the writ of election is liable to a penalty of \$200, unless, having a right to claim exemption under section 26, he has claimed exemption by letter setting forth the grounds of such exemption and forwarded it to the Chief Election Officer within the two days next after the receipt of the writ of election. 1951, c. 21, s. 34.

Proclama-
tion by R.O.

28.—(1) The returning officer shall after the receipt of the writ by proclamation (Form 7) declare,

- (a) the place and time fixed for the nomination of candidates;
- (b) the day on which the poll for taking the votes of the voters is to be held in case a poll is granted;
- (c) the polling places fixed by him and the territorial limits to which they respectively apply;
- (d) the time when and the place where he will add up the number of votes given to the candidates.

When
proclamation
to be
posted up

(2) The proclamation shall be posed up in the electoral district at least five days before the nomination day, neither the last day of posting up nor the nomination day being reckoned. 1951, c. 21, s. 37.

Place and
time of
nomination

29. The place for the nomination of candidates shall be the court house, municipal hall or some other public or private building in the most central or the most convenient place for the majority of the voters of the electoral district, and the time appointed for the nomination of candidates shall be from 1 p.m. until 2 p.m. of the day fixed for that purpose, and such nominations are subject to and shall be conducted in accordance with section 49. 1951, c. 21, s. 38; 1954, c. 25, s. 10.

30.—(1) The returning officer shall cause the proclamation to be posted up, Places of posting up proclamation

(a) at every post office in the electoral district; and

(b) at least at one other place in every polling subdivision in the electoral district; and

(c) in a municipality divided into wards, at the municipal hall and in some other public place in each ward in the electoral district, and in other local municipalities, at the municipal hall or other place where the meetings of the council are held.

(2) In territory without municipal organization the proclamation shall be posted up in some public place in the neighbourhood of each place at which a poll is to be held. In territory without municipal organization

(3) The proclamation shall be posted up in a conspicuous place and may be posted up on either public or private property. 1951, c. 21, s. 39. May be posted on public or private property

31. A returning officer who refuses or neglects to cause the proclamation to be posted up as prescribed by section 30 is liable to a penalty of \$200. 1951, c. 21, s. 40. Penalty

32.—(1) Where from any cause the proclamation could not be posted up so as to leave the required delay between the posting up and the nomination day, or the returning officer is unable to hold the nomination on the day fixed for that purpose, he may by proclamation under his hand fix another day for the nomination, which shall be the nearest day practicable, after allowing the required day between the posting up of the proclamation and the nomination day. Unforeseen delays provided for

(2) The proclamation shall be in the like form and shall be posted up in the like manner as provided in section 28. 1951, c. 21, s. 41 (1, 2). Form of proclamation

(3) The polling day shall be the fourteenth day after nomination day. 1951, c. 21, s. 41 (3); 1954, c. 25, s. 11. Polling day

(4) The returning officer, with his return, shall make to the Chief Election Officer a report of the cause that occasioned the postponement of the election. 1951, c. 21, s. 41 (4). Postponement, report as to cause

33. Wherever the Lieutenant Governor in Council is satisfied that communication and travel in an electoral district are likely to be dangerous or to be interrupted, he may direct that Communication

all necessary instructions and information relating to the election be transmitted by telephone or by such means as he deems appropriate, including information as to the number of votes given for each candidate and as to all other matters relating to the election, so as to enable the returning officer to return the candidate having the majority, or to make such other return as the case requires, and the Lieutenant Governor in Council may make such order for carrying out this section as he deems proper. 1951, c. 21, s. 42.

ELECTION CLERK

Appoint-
ment of
election
clerk

34.—(1) The returning officer, by a commission under his hand (Form 8), shall before nomination day appoint a person having the like qualifications as are required in the case of a returning officer to be his election clerk.

Death or
default of
election
clerk

(2) The returning officer may at any time during the election in the same manner appoint another election clerk if the one so appointed dies or refuses or neglects or is unable to perform his duties.

Duties of
election
clerk

(3) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is disqualified or unable to perform his duties and has not been replaced by another, shall act in his stead as returning officer. 1951, c. 21, s. 43.

Oath of
election
clerk

35. The election clerk before entering upon his duties shall take and subscribe the oath (Form 9). 1951, c. 21, s. 44.

Penalty for
refusing to
act

36. A person appointed election clerk, who refuses to accept the office, or who, having accepted it, refuses or neglects to take and subscribe the oath, or to perform the duties of an election clerk, is liable to a penalty of \$40. 1951, c. 21, s. 45.

Appoint-
ment and
oath to be
on writ

37. The appointment and oath of an election clerk shall be either endorsed on or attached to the writ. 1951, c. 21, s. 46.

Duties and
liabilities
when acting
as R.O.

38. An election clerk whose duty it becomes to act in the stead of the returning officer is subject to the same penalties as the returning officer for his neglect or refusal to perform the duties, and to all the obligations of that office, in like manner as if he had been appointed returning officer, and is not required to possess any other qualifications or to take the oath (Form 6). 1951, c. 21, s. 47.

BALLOT BOXES

39.—(1) The returning officer shall, on receiving the writ, provide as many ballot boxes as there are polling places within the electoral district. Ballot boxes to be furnished

(2) Every ballot box shall be made of durable material, provided with lock and key, and so constructed that ballot papers can be deposited therein but cannot be withdrawn without unlocking the box. How made

(3) If the returning officer fails to provide the ballot boxes, he is liable to a penalty of \$100 in respect of every ballot box that he fails to provide. 1951, c. 21, s. 48. Penalty on failure to furnish boxes

40. The property in the ballot boxes, ballot papers, marking instruments, books, papers and documents procured for or used at an election is in Her Majesty. 1951, c. 21, s. 49. Property of the Crown

41. Where it becomes necessary to use the ballot boxes, the returning officer shall deliver one ballot box to every deputy returning officer at least two days before the polling day. 1951, c. 21, s. 50. Delivery of ballot boxes to D.R.O.

42. A deputy returning officer who has not been supplied with a ballot box within the time prescribed in section 41 shall cause one to be made forthwith. 1951, c. 21, s. 51. Duty of D.R.O. as to ballot box

43. After the close of the election the returning officer shall deliver the ballot boxes used in the election to the clerks of the several municipalities in the electoral district and to the clerk of the peace in the cases of territory without municipal organization, and the boxes shall be preserved by them for use at future elections. 1951, c. 21, s. 52. Return of ballot boxes to municipal clerks and clerks of peace

POLLING SUBDIVISIONS

44.—(1) The returning officer shall divide his electoral district into polling subdivisions. Polling subdivisions

(2) Where the council of a municipality has divided the municipality into polling subdivisions, the returning officer, in dividing his electoral district into polling subdivisions, may adopt the municipal polling subdivisions. 1954, c. 25, s. 12. Idem

POLLING PLACES

45.—(1) Subject to subsection 3 and to sections 46 and 47, the returning officer, on receiving the writ, shall fix and provide at least one polling place for each polling subdivision in the Polling places

most central or most convenient place for the voters, and, if the board approves, the polling place may be provided outside the limits of the polling subdivision.

Union of
polling
subdivisions

(2) The returning officer may unite two or more adjoining polling subdivisions and fix one polling place for the united subdivisions.

Where
polling
places not
to be
R.S.O. 1960,
c. 218

(3) The poll shall not be held in a premises licensed under *The Liquor Licence Act* or in a place of public entertainment, and there shall be free access to the poll for every voter.

Additional
polling
places

(4) A returning officer may in his discretion grant such additional polling places in any polling subdivision as the extent of the subdivision and the remoteness of any number of its voters from the polling place render necessary.

More than
one polling
place in
subdivision

(5) Where a polling subdivision contains a greater number of voters than may conveniently vote at one polling place, the returning officer, with the approval of the board, may provide one or more additional polling places in the same building or near to one another, having regard to the total number of voters in the polling subdivision.

Division to
be according
to initial
letters of
voters'
names

(6) Where there are two or more polling places in a subdivision, each polling place shall be designated by the initial letters of the surnames of the voters who are to vote in such polling place, in the following manner, that is to say, from A to M inclusive, and from N to Z inclusive, or as may be determined by the returning officer.

Where
voters to
vote

(7) Every voter the initial letter of whose surname is included within the letters of the alphabet designating a polling place shall vote in the polling place so designated.

Appoint-
ment of
D.R.O. for
additional
polling
places

(8) The returning officer shall appoint a deputy returning officer for each such polling place and deliver to him in due time a polling list containing the names of all voters on the proper list of voters for the polling subdivision. 1951, c. 21, s. 54 (1-8).

Where
village
includes
parts of two
townships
in different
electoral
districts

(9) Where an incorporated village includes parts of two townships lying in different electoral districts, the board of the county or district in which the village or the larger part of the village is situate shall divide the village into two polling subdivisions and shall include the territory in each electoral district in a polling subdivision, and the board may give such directions to the clerk of the village as it deems necessary for the separating of the names of the voters in one polling subdivision from the names of the voters in the other and for

distinguishing between the two classes of names in the list of voters of the village. 1951, c. 21, s. 54 (9), *amended*.

46.—(1) The returning officer shall provide a proper polling place and shall ensure that it is furnished with light and heat and such other accommodation and furniture as may be required. R.O. to provide polling places

(2) A polling place may be situated in a schoolhouse, hall or other public building or on private property, or the returning officer may purchase or construct tents or portable booths or movable structures and without charge may set up or erect the same in any street, lane or vacant lot. Location of polling places

(3) The number and location of the polling places are subject to the approval of the board, and the chairman of the board shall certify in writing that the number of polling places and their location are necessary and proper. Number and location of polls, to be approved by board

(4) Where it is found that the returning officer has established a polling place that is unnecessary to accommodate the voters and that such polling place has not been approved by the board, the cost to the Province of establishing such poll and conducting the polling thereat shall be borne by the returning officer and deducted from his fee. Cost of unnecessary poll

(5) The sum of \$12 for every building or part of a building used as a polling place and an additional sum of \$6 for every additional polling place situate in the same building are payable by the returning officer to the persons entitled thereto. 1951, c. 21, s. 55. Amount payable for polling places

SOLDIERS' HOSPITALS

47.—(1) Where in any electoral district there is situate a hospital or other institution for the reception, treatment or vocational training of persons qualified to vote under paragraph 2 of subsection 1 of section 17, a polling place shall be provided in such institution or upon the premises, and, for the purpose of polling, the institution shall be deemed to be a polling place and every inmate or other person resident in the institution who is entered on the polling list shall vote at such polling place. 1951, c. 21, s. 56 (1), *amended*. Polling places in hospitals, etc.

(2) Where a patient or other inmate of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their agents to attend upon such person for the purpose of receiving his ballot, but a candidate shall not be present where the ballot of any such voter is marked under section 89. 1951, c. 21, s. 56 (2). In-capacitated patients

VOTING COMPARTMENTS

Compartment-
ments for
voters to
mark ballots

48. Every polling place shall be furnished with compartments in which voters may mark their ballot papers without other persons being able to see how they are marked, and it is the duty of the returning officer and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. 1951, c. 21, s. 57.

NOMINATIONS

Proceedings
on nomina-
tion day

49.—(1) The returning officer, at the time and place fixed for the nominations, shall make or cause to be made, in the presence of the voters there assembled, a proclamation (Form 10) and read or cause to be read publicly the writ of election and his commission as returning officer when he has been appointed by commission, and he shall then call for nominations or further nominations to be made in writing in the manner hereinafter set out.

Nomina-
tions to be
in writing

(2) The nomination shall be by writing (Form 11) signed by at least 100 duly qualified electors of the electoral district and stating the name, residence and legal addition, occupation or description of the person proposed in such manner as will identify him sufficiently, and a person shall be deemed to be a duly qualified elector if he is qualified to be entered on the list of voters as entitled to vote at the election.

Separately
for each
candidate

(3) Each candidate shall be nominated by a separate nomination paper, and a duly qualified elector may sign the nomination papers of different candidates. 1951, c. 21, s. 58 (1-3).

When to
be filed

(4) The nomination paper shall be produced to and filed with the returning officer at any time during the ten days immediately preceding nomination day or at any time up to the close of nominations on nomination day. 1954, c. 25, s. 13 (1).

Consent of
candidate

(5) The nomination paper shall be accompanied by the consent in writing of the person therein nominated, except where such person is absent from Ontario when such absence shall be stated in the nomination paper. 1951, c. 21, s. 58 (5).

Certificate
of R.O. as
to regularity

(6) Where the nomination paper is filed with the returning officer during the ten days next preceding nomination day or not later than 11 a.m. on nomination day, the returning officer shall then and there examine the paper and if he is satisfied of the regularity thereof he shall so certify in writing, and his

certificate is final and the validity of the nomination is not open to question upon any ground whatsoever. 1954, c. 25, s. 13 (2), *part*; 1955, c. 19, s. 2 (1).

(7) Where the nomination paper is filed with the returning officer after 11 a.m. on nomination day and before the time fixed for the close of nominations, <sup>Nomina-
tion paper,</sup>

(a) the returning officer shall accept the nomination ^{acceptance} paper and announce the name of the candidate;

(b) if, on examination of the nomination paper, it ^{rejection} appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the Chief Election Officer, and he shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day next following nomination day, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates. 1954, c. 25, s. 13 (2), *part*.

(8) In no case is it necessary for a candidate or his agent <sup>Candidate
or agent
need not
attend</sup> to be present at the nomination meeting. 1955, c. 19, s. 2 (2).

50. If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes, and, if he refuses or neglects to do so, he is liable to a penalty of \$1,000, and, if he declares a candidate to be elected, the election is void. 1951, c. 21, s. 59. <sup>Grant of
poll</sup>

51. If only one candidate is nominated, or if by the withdrawal of persons nominated there remains only one candidate, the returning officer, at the expiration of the time in which nominations may be received, shall close the election and openly proclaim the person so chosen to be duly elected. 1951, c. 21, s. 60. <sup>Election by
acclamation</sup>

52. The returning officer shall announce at the place and on the day of nomination, and on or immediately after the day of nomination shall publish at the expense of the candidates, the names and addresses of their official agents in a newspaper published or circulated within the electoral district. 1951, c. 21, s. 61. <sup>Official
agents</sup>

53.—(1) A candidate may withdraw at any time after his nomination and before the opening of the poll by delivering to the returning officer a declaration in writing (Form 12) to <sup>Withdrawal
of candidate
after
nomination</sup>

that effect signed by himself in the presence of a subscribing witness, and any votes cast for a candidate who has so withdrawn are void, and, if after the withdrawal there remains but one candidate, the returning officer shall return as duly elected the candidate so remaining.

Idem

(2) In the case of a candidate withdrawing where there are more than two candidates, the returning officer shall, if possible, cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted up in a conspicuous place in every polling place in the electoral district. 1951, c. 21, s. 62.

Death of candidate

54. If a candidate dies after being nominated and before the close of the poll, the returning officer shall fix new days for the nomination of candidates and for polling, and the nomination day shall be the nearest day practicable, after allowing the required delay between the posting up of the proclamation and the nomination day, and with his return he shall make to the Chief Election Officer a report of the cause that occasioned the postponement of the election. 1951, c. 21, s. 63.

R.O. to proclaim names of D.R.Os.

55. When a poll has been granted, the returning officer, immediately after having granted a poll and before adjourning his proceedings, shall publicly proclaim at the place of nomination as far as practicable the names of the deputy returning officers, and shall on the written request of a candidate furnish him with a list of the deputy returning officers showing the polling place at which each is to act. 1951, c. 21, s. 64.

POLLING

PROCEEDINGS PRELIMINARY TO THE POLL

Appointment of D.R.O.

56.—(1) The returning officer by a commission under his hand (Form 13) shall appoint a deputy returning officer for every polling place. 1951, s. 21, s. 65 (1).

D.R.O. to be voter

(2) No person shall be appointed a deputy returning officer who is not qualified to vote at the election. 1954, c. 25, s. 14.

Oath of office, etc.

57. Every deputy returning officer before acting shall take and subscribe the oath (Form 14). 1951, c. 21, s. 66.

Penalty for refusing to perform duties of office

58. A person appointed a deputy returning officer who refuses to accept the office, or who, after having accepted it, refuses or neglects to take and subscribe the oath or to perform the duties of a deputy returning officer, is liable to a penalty of \$100. 1951, c. 21, s. 67.

59. In case of the death, illness or absence of a deputy returning officer or his refusal or neglect to act, the returning officer may in the manner provided in section 56 appoint another deputy returning officer to act in his stead, and the appointment and oath of the person so appointed shall be endorsed upon or attached to the poll book. 1951, c. 21, s. 68.

Death or
absence of
D.R.O.

60. In territory without municipal organization, polls shall be held at such places as are fixed by the returning officer, subject to the approval of the board. 1951, c. 21, s. 69.

Polls in
districts

61. Territory within a newly organized municipality which there is no assessment roll shall be deemed to be territory without municipal organization within the meaning of section 60. 1951, c. 21, s. 70.

Municipality
without
assessment
roll

62. The returning officer shall deliver to each deputy returning officer, at least two days before the polling day, a blank poll book, forms of oaths to be administered to voters, envelopes and sealing-wax, and a screen if one is required. 1951, c. 21, s. 71.

Supplies to
be furnished
by returning
officer

63.—(1) If foolscap paper is used for printing the ballot papers, it shall be of a weight of not less than 16 pounds to the ream and, if large post paper is used, it shall be of a weight of not less than 25 pounds to the ream.

Ballot
papers,
weight

(2) The paper used shall contain a secret thread or other mark so placed as to run through each column of ballots ruled on every sheet of the ballot paper furnished.

Paper to
show secret
marking

(3) The manufacturer of the paper shall furnish security in such amount as is fixed by the Lieutenant Governor in Council that none of the paper manufactured for use in printing the ballots will be supplied by him to any person other than the Queen's Printer, and upon the delivery of the paper the number of sheets shall be counted by the Queen's Printer and a receipt therefor in writing signed by the Queen's Printer shall be given to the manufacturer.

Security to
be furnished
by manu-
facturer

(4) The paper required for the printing of the ballot papers shall be furnished to the Chief Election Officer by the Queen's Printer from time to time as is required, and the Queen's Printer and the Chief Election Officer shall check the number of sheets of ballot paper so furnished and the Chief Election Officer shall give to the Queen's Printer a receipt in writing signed by him.

Queen's
Printer to
furnish paper
to C.E.O.

Supply to
be furnished
to R.O.

(5) The Chief Election Officer shall deliver or transmit by express in one or more boxes locked and sealed with his seal to the returning officer for each electoral district a sufficient number of sheets of the paper for the printing of the ballots, and the returning officer shall, upon receiving them, count them and forward his receipt therefor (Form 15) to the Chief Election Officer.

R.O. to see
to printing
of ballots

(6) The returning officer shall cause to be printed on the paper furnished to him a sufficient number of ballot papers, not being less than the total number of voters in the electoral district.

Printer to
give receipt
for ballot
paper

(7) The printer shall count the sheets of ballot paper delivered to him and shall give a receipt therefor (Form 16) to the returning officer, and the returning officer shall transmit it with the other papers relating to the election to the Chief Election Officer.

Form of
ballot

(8) The names of the candidates, alphabetically arranged in the order of their surnames, shall be printed on the ballot paper (Form 17), which shall be provided with a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub.

Numbering
ballot papers

(9) The ballot papers shall be numbered consecutively on the back of the stubs and the counterfoils, the same number being printed or written on the stub as on the counterfoil, and shall be bound or stitched in books containing 25, 50 or 100 ballot papers, as is most suitable for supplying the polling subdivisions proportionately to the number of voters in each.

Uniformity

(10) All ballot papers shall be of the same description and as nearly alike as possible.

Printer's
name

(11) The ballot papers shall bear upon the back the name of the printer who printed them.

Affidavit
of printer

(12) The printer shall make his affidavit (Form 18) and deliver it to the returning officer with the ballot papers. 1951, c. 21, s. 72.

Supply to
D.R.O.

64. The returning officer shall furnish each deputy returning officer with a sufficient number of ballot papers to supply the voters on the polling list of his polling place or polling subdivision, and a certificate of the number of ballot papers with the necessary materials for voters to mark their ballot

papers, and he shall, when delivering them, make a record of the numbers on the ballot papers delivered to each deputy returning officer, and this record shall be returned to the Chief Election Officer with the other documents required to be returned to him. 1951, c. 21, s. 73.

65.—(1) The returning officer shall furnish each deputy returning officer with at least three copies of the printed directions for the guidance of voters in voting (Form 3), and the deputy returning officer shall, before or at the opening of the poll on the day of polling, cause such printed directions to be posted up in conspicuous places outside the polling place and in each compartment of the polling place. Copies of directions to be given to voters for D.R.O.

(2) The deputy returning officer shall count the ballot papers as soon as he receives them from the returning officer and forward a receipt therefor (Form 19) to the returning officer. Receipt to be given by D.R.O. 1951, c. 21, s. 74.

66. The Chief Election Officer, before each general election and at least once in every year, shall cause a check to be made of all ballot paper furnished to him, and such paper shall be kept at all times under lock and key and no one shall have access to the place in which it is kept except the Chief Election Officer or some person acting directly under his authority. Custody of ballot paper 1951, c. 21, s. 75.

POLL CLERKS

67.—(1) Every deputy returning officer shall by a commission under his hand (Form 20) appoint a poll clerk to assist him in taking the poll, and the poll clerk before acting shall take and subscribe the oath (Form 21). Appointment

(2) Every person appointed poll clerk who refuses to accept the office, or who, after having accepted it, refuses or neglects either to take and subscribe the oath or to perform the duties of poll clerk, is liable to a penalty of \$40. 1951, c. 21, s. 78, (1, 2). Penalty

(3) No person shall be appointed a poll clerk who is not qualified to vote at the election. 1954, c. 25, s. 16. Poll clerk to be a voter

68. The poll clerk shall assist the deputy returning officer in the performance of the duties of his office, and shall obey his orders. Duties of poll clerk 1951, c. 21, s. 79.

69. If the deputy returning officer refuses or neglects to perform the duties of his office, or from any cause becomes unable to perform them, and if no other deputy returning To act as D.R.O. in certain cases

officer appointed by the returning officer appears at the polling place, the poll clerk, under the same penalties as are hereinbefore provided for deputy returning officers in like cases, shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking the oath of a deputy returning officer. 1951, c. 21, s. 80.

Appoint-
ment of
another poll
clerk in
such cases

70. Where a poll clerk acts as deputy returning officer, he may appoint by a commission under his hand (Form 20) another person as poll clerk to assist him in the performance of the duties of his office, and may administer the oath to him, and such commission and oath shall be endorsed on or attached to the poll book. 1951, c. 21, s. 81.

Appoint-
ment of
clerk in
certain cases

71. If a poll clerk refuses or neglects to perform the duties of his office or from any cause becomes unable to perform them, the deputy returning officer may appoint another person as poll clerk, and the commission and the oath shall be endorsed on or attached to the poll book. 1951, c. 21, s. 82.

CONSTABLES

Constable
at polling
place

72. The deputy returning officer may appoint a constable to preserve order at his polling place, but such appointment shall not be made unless it has been authorized in writing by the returning officer or unless a breach of the peace or a contravention of the law is threatened or anticipated. 1951, c. 21, s. 83.

WHERE VOTERS TO VOTE

Voter to
vote in
subdivision
in which he
resides

73.—(1) Subject to section 74, if the name of a person entitled to vote is entered on the polling list for more than one polling subdivision, he shall vote only at the polling place for the subdivision in which he resides at the time of the polling, if entitled to vote in such subdivision.

Penalty

(2) A person who votes in contravention of subsection 1 is liable to a penalty of \$200. 1951, c. 21, s. 84.

D.R.O., poll
clerk and
agents may
vote at
polling
places
where they
are em-
ployed

74.—(1) The returning officer, on the request of a person entitled to vote who has been appointed a deputy returning officer or poll clerk or agent of any of the candidates at a polling place other than the one at which he is entitled to vote, shall give him a certificate (Form 22) that he is entitled to vote at the polling place at which he is stationed during the polling day, and the certificate shall bear the date upon which it is signed by the returning officer.

(2) The returning officer shall not give such a certificate until he has ascertained by reference to the polling list that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling subdivision or polling place in which the applicant appears by the polling list to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote in such polling subdivision or polling place.

(3) The returning officer is not required to give the certificate unless requested to do so at least two days before polling day.

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

(5) The returning officer shall enter in a list the name, residence and occupation of every person to whom he gives a certificate under this section, the polling place at which the person is authorized to vote under the certificate, and the polling subdivision or polling place in or at which the person appears by the polling list to be entitled to vote, and state therein whether the certificate is granted to him as deputy returning officer, poll clerk or agent, and if as agent, the name of the candidate for whom he is agent, and the entry shall be made before the certificate is delivered.

(6) The returning officer shall also enter in the list the name of every person applying for a certificate to whom it was refused with the ground of refusal, and, if the last-mentioned person claimed to be the agent of a candidate, the name of the candidate, and the list shall be open to inspection by any candidate or by his agent or by any voter.

(7) A returning officer shall not give certificates to more than two agents for the same candidate at one polling place and he shall not give a certificate under this section except upon the personal or written request of the applicant, and a returning officer who gives a certificate in contravention of this subsection is liable to a penalty of \$400. 1951, c. 21, s. 85.

75.—(1) A person to whom a certificate is given under section 74 is on its production entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk or agent during polling day.

Person receiving a certificate to take oath of qualification before voting

(2) A person who receives a certificate, whether a deputy returning officer, poll clerk or agent, shall not vote until he has taken one or other of the oaths of qualification, and any person who contravenes this subsection is liable to a penalty of \$400. 1951, c. 21, s. 86 (1, 2), *amended*.

Before whom oath to be taken

(3) The oath shall be administered to a deputy returning officer by the poll clerk, and to a poll clerk or agent by the deputy returning officer.

Entry on list of persons voting under authority of a certificate

(4) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book (Form 5), opposite the name, residence and occupation of every person, including himself if he so votes, voting under the authority of a certificate, the words "Voted under Certificate".

Certificate to be delivered by person voting

(5) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot paper.

Preservation

(6) The deputy returning officer shall enclose all such certificates in one envelope. 1951, c. 21, s. 86 (3-6).

THE POLL

Hours of polling generally

76.—(1) Subject to subsection 2, the polls at every election to the Assembly shall open at 8 a.m. and shall remain open until 7 p.m. of the same day and the voting shall be by ballot in the manner provided by this Act.

When board may provide for earlier opening

(2) Where the board deems it desirable for the convenience of the voters that the polls should be opened in any municipality or electoral district at an earlier hour than 8 a.m., the board may direct the polls to be opened in such municipality or electoral district at any time earlier than 8 a.m., but not earlier than 6 a.m., as the board deems expedient. 1951, c. 21, s. 87.

ADVANCE POLLS

Advance polls

77.—(1) The returning officer, with the approval of the board in each electoral district in which the necessity for such action arises, shall provide polls for the purpose of receiving the votes of voters who expect to be absent from the electoral district on the day fixed for polling. 1951, c. 21, s. 88 (1); 1954, c. 25, s. 17 (1).

(2) Polls for receiving the votes of such voters shall be held and kept open from 8 a.m. until 5 p.m. and from 7 p.m. until 10 p.m. on the Thursday, Friday and Saturday of the week preceding the week during which the poll is to be held, and, if a holiday falls upon any of such days, the poll shall be held on the Wednesday of the same week in lieu of such holiday.

(3) The returning officer shall, with the approval of the board, fix the polling places and appoint a deputy returning officer and poll clerk for each polling place.

(4) Notice of the times and places at which polls will be opened (Form 23) shall, prior to the day so fixed for holding the poll, be given by the returning officer by posting up notices at each of the polling places so appointed and in conspicuous places in the electoral district and, where possible, by advertisement in a newspaper published or circulated in the electoral district. 1951, c. 21, s. 88 (2-4).

(5) Every person offering himself as a voter at the polling place before being allowed to vote shall be required by the deputy returning officer to make the following declaration, which shall be kept by the deputy returning officer with the other records of the poll:

I,, declare that I expect to be absent from the electoral district of, where I am ordinarily resident, on the day for holding the poll at the coming election.

Dated at..... this..... day of, 19.....

.....
(Signature of Voter)

Witness:

.....
Deputy Returning Officer

1951, c. 21, s. 88 (5); 1954, c. 25, s. 17 (2).

(6) Any person signing any such declaration knowing that any statement therein is false is liable to a penalty of \$200.

(7) The poll clerk shall record in the poll book in the column headed "Remarks" after the name of each person who votes a note that he has made the declaration mentioned in subsection 5 and the number of the polling subdivision in which he is entered on the list of voters.

Ballot box
not to be
opened

(8) The ballot box shall not be opened after the opening of the poll until 7 p.m. on the general polling day, but on adjourning the poll each day the deputy returning officer shall, and any candidate or agent present who desires to do so may, affix his seal to the ballot box in such manner that it cannot be opened or any ballot deposited in it without breaking the seal.

List of
persons
voting

(9) At the close of the poll each day, the deputy returning officer shall forthwith make up and deliver or mail to the returning officer a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the voter is entered on the polling list, and the returning officer shall, at the request of any candidate, furnish him with a copy of such list.

Noting other
deputy
returning
officers' lists

(10) Upon receiving from the deputy returning officer the list mentioned in subsection 9, the returning officer shall make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each voter whose name appears on such list and whose vote has been received at an advance poll, showing that such voter has polled his vote.

Close of poll

(11) On the general polling day, the deputy returning officer shall, in the presence of such candidates and agents as are present at the hour fixed for the closing of the poll, open the ballot boxes, count the votes and perform all other duties required of deputy returning officers by sections 102 to 109. 1951, c. 21, s. 88 (6-11).

MARINERS VOTING BY PROXY

Mariner's
right to
vote by
proxy

78—(1) Where the name of a person is entered on the polling list for a polling subdivision as entitled to vote at elections to the Assembly and he is a mariner, he is entitled to vote by proxy as provided in this section.

Appoint-
ment of
proxy

(2) A mariner may appoint in writing (Form 24) a proxy who shall be the wife, husband, parent, brother, sister or child of the mariner, of the full age of twenty-one years and an elector entitled to vote in the electoral district in which the mariner is qualified to vote.

Term of
appoint-
ment

(3) The appointment of a proxy shall name the person authorized to vote at an election for which a writ has been issued for the electoral district, and no appointment of a proxy is valid unless it is made after the date of the issue of the writ of election nor does it remain in force after the return of the writ.

(4) A person who has been appointed a voting proxy may apply to the revising officer at the sittings held for the revision of the lists in accordance with *The Voters' Lists Act* in the municipality in which the mariner is entitled to vote, to be entered upon such list.

Application of proxy to be entered on list
R.S.O. 1960, c. 420

(5) The revising officer shall take evidence on oath as to the right of the mariner to vote in the subdivision of the municipality upon the list of which his name is entered and as to the qualifications of the voting proxy, and, if the revising officer finds that the mariner is duly qualified and that the voting proxy is qualified to act for the mariner, he shall give a certificate across the face of the appointment of the voting proxy to that effect (Form 25) and shall cause the name of the voting proxy to be entered on the polling list after the name of the mariner.

Evidence to be taken by revising officer

(6) No more than one person shall be appointed a voting proxy on behalf of a mariner at any election.

Not more than one proxy

(7) A ballot paper shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the revising officer thereon as provided in subsection 5 and takes the oath (Form 26).

Oath on voting

(8) The deputy returning officer shall record in the poll book the fact that the mariner voted by proxy, showing the name of the proxy, and shall file the proxy and certificate with the election papers and return them to the returning officer in the envelope provided for that purpose.

Record of voting by proxy

(9) The Lieutenant Governor in Council may prescribe any other forms that he deems necessary for the purposes of this section and may make regulations as to the mode in which proxies may be given and generally for the better carrying into effect of this section and preserving the secrecy of voting in pursuance thereof.

Forms and regulations

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy for a mariner.

Proxy may vote in own right

(11) Every person who,

General penalties

(a) attempts to vote at an election otherwise than by means of such voting proxy while such voting proxy is in force; or

- (b) votes or attempts to vote at any election under the authority of a voting proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the voter who made the appointment is dead or is no longer entitled to vote,

is guilty of an illegal practice within the meaning of this Act and is liable to a penalty of \$200 and to be imprisoned for six months. 1951, c. 21, s. 89.

VOTING BY BALLOT

Voting to be
by ballot

79. The votes shall be given by ballot. 1951, c. 21, s. 90.

PROCEDURE AT POLL

Attendance
of D.R.O.

80.—(1) The deputy returning officer shall attend at the polling place at least fifteen minutes before the hour fixed for opening the poll.

Counting
ballots
before
opening of
poll

(2) During such fifteen minutes and before the opening of the poll, the agents who are entitled to be present in the polling place during polling hours are entitled to have the ballot papers intended for use thereat counted in their presence and to inspect the ballot papers and all other papers, forms and documents relating to the poll. 1951, c. 21, s. 91.

Deputy to
show box
empty, and
lock and
seal it

81. The deputy returning officer shall, before opening the poll, show the ballot box to such persons as are present in the polling place so that they may see that it is empty, and he shall then lock the box and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and he shall then place and keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. 1951, c. 21, s. 92.

One voter
only for
each com-
partment

82. Not more than one voter for each compartment shall enter the room where the poll is held at any one time, and each voter upon so entering shall declare his name, place of residence and occupation, which particulars shall be entered in the poll book by the poll clerk, a consecutive number being prefixed to the name. 1951, c. 21, s. 93.

Persons on
polling list
to be
allowed to
vote on
taking oath
if required

83. Subject to sections 75 and 84, the deputy returning officer shall not receive the vote of any person whose name is not entered on the polling list, but shall receive the vote of every person whose name is entered thereon, if such person,

where required by a candidate or his agent, or by the deputy returning officer, takes the oath of qualification (Form 27 or 28) and the oath of allegiance (Form 29) or whichever is required to be taken. 1951, c. 21, s. 94.

84.—(1) In rural polling subdivisions, the deputy returning officer, if required by a person whose name has been omitted in error from the polling list and who is vouched for by a voter whose name is on the polling list and who is resident in the polling subdivision, shall administer to such person an oath in the following form:

You swear that your name is (*full name of applicant*), that you reside at (*give street, number, lot, concession, etc.*), that your name as you believe has been omitted in error from the polling list, and that you are a British subject and qualified to vote at this election. So help you God.

(2) In urban polling subdivisions, the deputy returning officer, if requested by a person whose name has been omitted in error from the polling list but whose name appears on the municipal list of voters for the polling subdivision in which he resides and who is vouched for by a voter whose name is on the polling list and who is resident in the polling subdivision, shall administer to such person an oath in the following form:

You swear that your name is (*full name of applicant*), that you reside at (*give street, number, lot, concession, etc.*), that your name appears on the municipal list of voters for the polling subdivision in which you reside, that your name as you believe has been omitted in error from the polling list, and that you are a British subject and qualified to vote at this election. So help you God.

(3) To the voter vouching for a person under subsection 1 or 2, the deputy returning officer shall administer an oath in the following form:

You swear that your name is (*full name of voter*), that you reside at (*give street, number, lot, concession, etc.*), that you are the person named by the said name in the polling list, that you well know (*insert name of applicant*), and that he is as you believe duly qualified to be entered on the polling list and to vote at this election. So help you God.

(4) The deputy returning officer, after administering the prescribed oaths, shall cause the applicant's name to be added to the polling list with the word "sworn" written thereafter.

(5) The applicant, upon taking the oath and being vouched for, is entitled to vote. 1954, c. 25, s. 18, *amended*.

Administra-
tion of oath
to D.R.O.
voting at
his polling
place

85. Where a deputy returning officer votes at the polling place at which he has been appointed to act, the poll clerk or in his absence the agent of a candidate authorized to be present may administer to him the oath to be taken by a voter. 1951, c. 21, s. 96.

When
D.R.O. to
swear voter

86.—(1) If a deputy returning officer has reason to believe that a person offering to vote is not a qualified voter or has already voted, or tenders his vote under a false name or designation or personates or represents himself falsely as being upon the polling list, the deputy returning officer shall administer the prescribed oath to the voter, whether he has been requested to do so or not.

Penalty

(2) Every deputy returning officer who acts in contravention of this section is liable to a penalty of \$200. 1951, c. 21, s. 97.

D.R.O. to
put initials
on back of
ballot paper
and number
on counter-
foil

87. Every person who is entitled to vote shall receive from the deputy returning officer a ballot paper on the back of which the deputy returning officer has previously put his initials so placed as indicated in Form 17 that when the ballot is folded they can be seen without opening it, and on the back of the counterfoil of which he has placed a number corresponding to that placed opposite the voter's name in the poll book. 1951, c. 21, s. 98.

Instructions
to voter

88. The deputy returning officer shall, upon the request of the voter, instruct him how to mark and fold his ballot paper, but without inquiring or seeing for whom he intends to vote except in the cases provided for by section 89. 1951, c. 21, s. 99.

Voter in-
capacitated
by blindness,
etc.

89.—(1) On the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, the deputy returning officer shall require the voter making the application to take an oath (Form 30) of his incapacity to vote without assistance, and shall thereafter assist the voter by marking his ballot in the manner directed by the voter in the presence of the agents of the candidates in the polling place and of no other person, and place the ballot in the ballot box.

Blind voter's
ballot
marked by
friend

(2) The deputy returning officer shall either deal with a blind voter in the manner provided in subsection 1 or, at the request of any blind voter who has taken the oath (Form 30) and is accompanied by a friend, shall permit the friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

(3) Any friend who is permitted to mark the ballot of a blind voter under subsection 2 shall first be required to take an oath (Form 31) that he will keep secret the name of the candidate for whom the ballot of the blind voter is marked by him. Oath of friend

(4) No person shall be allowed to act as the friend of more than one blind voter at any polling place. May act as friend once only

(5) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name the reason why the ballot paper was marked by him or by a friend of the voter. 1951, c. 21, s. 100. Entry in poll book

90.—(1) Where a voter does not understand the English language, the deputy returning officer may employ an interpreter to translate the oath as well as any lawful questions necessarily put to the voter and his answers, and the interpreter shall take the following oath: Voters who cannot speak English

I swear that I will faithfully translate the oaths, declarations, questions and answers that the deputy returning officer requires me to translate at this election. So help me God.

(2) If no interpreter is found or presents himself at the polling place, the voter shall not be allowed to vote. 1951, c. 21, s. 101. If no interpreter, no vote

91. The voter on receiving his ballot paper shall forthwith proceed into one of the compartments of the polling place and there mark his ballot paper, making a cross with a pen or pencil within the white space containing the name of the candidate for whom he intends to vote and shall then fold the ballot paper so that the initials on the back of it and the number on the counterfoil can be seen without opening it, and hand it to the deputy returning officer, who shall, without unfolding it, ascertain by examining his initials, and the number on the counterfoil, that it is the same ballot paper that he furnished to the voter, and shall then, in full view of all present, including the voter, remove the counterfoil and tear up or otherwise destroy it and place the ballot paper in the ballot box. 1951, c. 21, s. 102. Mode of marking, folding and depositing ballot paper

92. The poll clerk shall enter in the poll book opposite the name of each voter voting the word "Voted" as soon as the ballot paper has been deposited in the ballot box, and shall enter in the same book the word "Sworn" or "Affirmed" opposite the name of each voter to whom the oath has been administered, and the words "Refused to be Sworn" or "Refused to Affirm" opposite the name of each voter who has refused to take an oath when he has been required so to do. 1951, c. 21, s. 103. Entries to be made in poll book as to voters

Voters
refusing to
be sworn

93.—(1) A person who has refused to take the oath when required so to do shall not receive a ballot paper or vote, and the vote of such person, if taken and received, is void.

Penalty

(2) Every deputy returning officer who receives such vote or causes it to be received is liable to a penalty of \$200. 1951, c. 21, s. 104.

Voter to
leave as
soon as
possible

94. A voter shall vote without undue delay and shall leave the polling place as soon as his ballot paper has been placed in the ballot box. 1951, c. 21, s. 105.

Exclusion
from
balloting
compartment

95. While a voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see for whom the voter marks his ballot paper. 1951, c. 21, s. 106.

Voter not
to take his
paper from
polling place,
etc.

96. A person who has received a ballot paper shall not take it out of the polling place, and a person who receives a ballot paper and leaves the polling place without delivering it to the deputy returning officer, or returns his ballot paper declining to vote, forfeits his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot paper, but took it out of the polling place or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" upon the ballot paper and preserve it to be returned to the returning officer. 1951, c. 21, s. 107.

Voter who
alleges he
has been
personated

97.—(1) If a person representing himself to be a voter applies for a ballot paper after another person has voted as such voter, he is entitled to receive a ballot paper and to vote after taking the oath and otherwise establishing his identity to the satisfaction of the deputy returning officer. 1951, c. 21, s. 108 (1).

Name of
voter, etc.,
to be
entered in
poll book

(2) The name of the voter shall be entered on the poll book and a note shall be made of his having voted on a second ballot paper and of the fact of the oath having been taken and of any objections made on behalf of any and of which of the candidates. 1951, c. 21, s. 108 (3).

Where ballot
paper
accidentally
spoilt

98. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "Cancelled" upon the first-mentioned ballot paper and preserve it to be returned to the returning officer. 1951, c. 21, s. 109.

99. A person who applies for a ballot paper shall by so doing be deemed to have tendered his vote or to have offered to vote, and a person who has placed or caused to be placed his ballot paper in the ballot box, or has delivered it to the deputy returning officer or poll clerk for the purpose of having it placed in the ballot box, shall be deemed to have voted. 1951, c. 21, s. 110.

100. In addition to the deputy returning officer, the poll clerk, the constable or constables, the candidates and their agents, not exceeding two in number for each candidate, and no others, shall be permitted to remain in the polling place during the time the poll remains open and at the counting of the votes. 1951, c. 21, s. 111.

101.—(1) Every employee who is a qualified voter shall, while the polls are open on a polling day at an Ontario election, have three consecutive hours for the purpose of casting his vote, and, if the hours of his employment do not allow for three consecutive hours, his employer shall, at the convenience of the employer, allow him such additional time for voting as is necessary to provide the three consecutive hours.

(2) No employer shall make any deduction from the pay of any such employee nor impose upon or exact from him any penalty by reason of absence from his work during such consecutive hours.

(3) Any employer who, directly or indirectly, refuses, or by intimidation, undue influence, or in any other way, interferes with the granting to any voter in his employ of the consecutive hours for voting, as in this section provided, is guilty of an offence and on summary conviction is liable to a fine of \$200 and an additional amount equal to the amount of any deduction or reduction that he has made in contravention of this section. 1951, c. 21, s. 112, *amended*.

PROCEEDINGS AFTER CLOSE OF POLL

102. Immediately after the close of the poll, the deputy returning officer shall place all the cancelled and declined ballot papers in separate envelopes and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted and make an entry thereof on the line immediately below the name of the voter who voted last, thus: The number of voters who voted at this election in this polling place is (*stating the number*), and he shall sign his name thereto; then, in the presence and in full view of the

persons entitled to be present, he shall open the ballot box and proceed to count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. 1951, c. 21, s. 113.

What ballot
papers to
be rejected
in counting
votes

103. In counting the votes, the deputy returning officer shall reject all ballot papers, herein called "rejected ballot papers",

(a) that have not been supplied by him; or

(b) by which votes have been given for more than one candidate; or

(c) upon which there is any writing or mark by which the voter can be identified,

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot paper avoids it or warrants its rejection. 1951, c. 21, s. 114; 1954, c. 25, s. 20.

Objections
to be noted

104.—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper by a candidate or his agent, and shall decide the objection subject to review on recount or on petition questioning the election or return.

and
numbered
and initialled

(2) Each objection shall be numbered and a corresponding number placed on the back of the ballot paper and initialled by the deputy returning officer. 1951, c. 21, s. 115.

How ballots
to be
counted

105.—(1) All the ballot papers not rejected by the deputy returning officer shall be counted and an account of the number of ballots cast for each candidate and of the number of rejected and cancelled ballot papers and all the ballot papers indicating the votes given for each candidate respectively shall be put into separate envelopes.

Rejected
and unused
ballot papers

(2) All rejected and unused ballot papers shall be put into separate envelopes, which shall be endorsed so as to indicate their contents and sealed by the deputy returning officer, and any agent present may write his signature across the flap of the envelope and may also affix his seal. 1951, c. 21, s. 116.

Statement
of result
to be made
by D.R.O.

106.—(1) The deputy returning officer shall make out a statement in triplicate (Form 32), one part to remain attached to the poll book, another to be retained by him, and the third to be enclosed by him in a special envelope supplied for the purpose, which he shall seal and deposit in the ballot box.

(2) The statement shall be signed forthwith by the deputy returning officer and poll clerk and such of the candidates or their agents as may be present who desire to sign it. Signatures to statement

(3) The deputy returning officer shall then deliver to each of the candidates, or to their agents, a certificate (Form 33) of the number of ballots cast for each candidate and of the number of rejected ballot papers. 1951, c. 21, s. 117. Certificate of result of poll

107. The poll clerk immediately after the completion of the counting of the votes shall take and subscribe the oath (Form 34). 1951, c. 21, s. 118. Oath of poll clerk

108. The poll book, the polling list, the envelopes containing the ballot papers, and all other documents that served at the election shall then be placed in the large envelope supplied for the purpose, which shall then be sealed and placed in the ballot box. 1951, c. 21, s. 119. Poll book, envelopes, etc., to be placed in large envelope in ballot box

109.—(1) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it personally to the returning officer, and, if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it to the returning officer, and shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered, and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver the ballot box to the returning officer and shall take before him the oath (Form 35.) Ballot box to be delivered to R.O.

(2) The candidates or their agents are entitled to be present when the ballot box is delivered pursuant to subsection 1. Right of candidates, etc., to be present

(3) In lieu of proceeding under subsection 1, after locking and sealing the ballot box, the deputy returning officer may forward it by registered mail to the returning officer. 1951, c. 21, s. 120 (1-3). Ballot box may be forwarded by registered mail

(4) As soon as the deputy returning officer has complied with subsection 1 or 3, he shall take and subscribe the oath (Form 36) and shall personally deliver or transmit it by registered mail to the returning officer. 1951, c. 21, s. 120 (4), *amended*. Oath of D.R.O.

110. When the returning officer receives a ballot box, he shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk Duty of R.O. on receipt of boxes

from having access to it, and immediately on the receipt of a ballot box he shall seal it with his own seal in such a way that it cannot be opened without his seal being broken and without effacing or covering the seals affixed to it. 1951, c. 21, s. 121.

Count by
R.O. and
declaration
of result

111. The returning officer, at the place, day and hour appointed by his proclamation and after having received all the ballot boxes, shall open them and the large envelopes containing the poll books and the envelopes containing the statements of the poll, but not any of the other sealed envelopes, and shall, in the presence of the election clerk and of the candidates or their agents, if present, add up the votes given for each candidate from the statements of the poll contained in the ballot boxes, and shall forthwith declare to be elected the candidate having the largest number of votes. 1951, c. 21, s. 122, *revised*.

Casting
vote

112. If on the addition of the votes by the returning officer an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared elected, the returning officer shall give the additional or casting vote. 1951, c. 21, s. 123.

PROCEEDINGS IN CASE OF NON-RETURN OF BALLOT BOXES, ETC.

Adjourn-
ment of
proceedings
where ballot
boxes not
delivered

113. If all the ballot boxes are not returned on the day fixed for adding up the votes, the returning officer shall adjourn the proceedings to a subsequent day, which shall not be more than a week later than the day originally fixed. 1951, c. 21, s. 124.

Where
default made
by D.R.O.
in returning
documents

114. If a deputy returning officer has not enclosed in the ballot box the statement of the ballot papers counted by him as required by this Act, or if for any other cause the returning officer cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, he may adjourn to a future day and hour the adding up of the votes, and so from time to time, such adjournment or adjournments not in the aggregate to exceed two weeks. 1951, c. 21, s. 125.

Disappear-
ance of
ballot boxes,
duty of R.O.

115. If any of the ballot boxes have been destroyed or lost, or, for any other reason, are not forthcoming by the time fixed for adding up the votes, the returning officer shall ascertain the cause and shall procure from each deputy returning officer whose ballot box is missing, or from any other person having them, the statements and certificates of the number of votes given for each candidate, or copies of them, the whole to be verified by oath. 1951, c. 21, s. 126.

116. If the statements and certificates, or any of them, or copies of them, cannot be procured, the returning officer shall ascertain by such evidence as he is able to obtain the total number of votes given for each candidate at the several polling places, and may summon any deputy returning officer, poll clerk or other person to appear before him at a time and place to be named by him, with all necessary papers and documents, of which time and place and of the intended proceedings the candidates shall have notice, and the returning officer may examine on oath such deputy returning officer, poll clerk or other person respecting the matter in question. 1951, c. 21, s. 127.

117. In case of an adjournment by reason of any deputy returning officer not having placed in the ballot box a statement of the ballot papers counted by him, the returning officer shall, in the meantime, use all reasonable efforts to ascertain the number of votes given for each candidate at the polling place of such deputy returning officer and has the powers conferred by section 116. 1951, c. 21, s. 128, *revised*.

118. The returning officer shall return the candidate having the largest number of votes, and shall mention specially in a report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, or the want of any statement, and the mode by which he ascertained the number of votes given for each candidate. 1951, c. 21, s. 129.

RECOUNT OR FINAL ADDITION BY COUNTY JUDGE

119.—(1) In this section and in sections 120 to 132, “judge” means the judge of the county or district court, and, where there are two or more judges, the senior judge or, in the case of the illness or absence of the senior judge or where the senior judge requests him to act, a junior judge. 1951, c. 21, s. 130 (1).

(2) If within four days after the day on which the returning officer added the votes for the purpose of declaring a candidate elected, upon the application of a candidate or a voter, it is made to appear by affidavit to the judge of the county court of the county in which the electoral district or any part of it is situate,

- (a) that a deputy returning officer has in counting the votes improperly counted any ballot paper, improperly rejected any ballot paper or made an incorrect statement of the number of ballots cast for any candidate; or

(b) that the returning officer has improperly added up the votes,

and, if the applicant deposits within that time with the clerk of the county court the sum of \$100 in legal tender, money order or a cheque drawn upon and accepted by a chartered bank or trust company doing business in Ontario as security for the costs in connection with the recount or final addition of the candidate appearing by the addition to be elected, the judge may appoint a time and place to recount or finally add up the votes cast at the election. 1951, c. 21, s. 130 (2), *amended*.

What judge
to hold
recount
when district
in two or
more
counties

(3) Where the electoral district comprises parts of two or more counties, the application shall be made to and the recount or final addition shall take place before the judge of the county court of the county having the larger or largest population according to the last Federal census. 1951, c. 21, s. 130 (3).

Notice of
time and
place of
recount

120. At least two days notice in writing of the time and place appointed shall be given to the candidates, the returning officer and the election clerk, and the judge may, at the time of the application or afterwards, direct that service of the notice upon the candidates, the returning officer and the election clerk may be substitutional or be made by mail or in such other manner as he thinks fit. 1951, c. 21, s. 131.

R.O. to
withhold
return

121. The returning officer after the receipt of the notice shall delay making his return to the Chief Election Officer until he receives a certificate from the judge of the result of the recount or final addition, and, upon receipt of the certificate, he shall make his return. 1951, c. 21, s. 132.

Presence
of county
court clerk

122. The judge may require the clerk of the county court to be present at the time and place appointed. 1951, c. 21, s. 133.

Summoning
officers to
be present
with
documents

123.—(1) The returning officer and his election clerk shall attend at the time and place appointed with the envelope containing the ballot papers or the original statements of the poll, as the case may be.

Production
and custody
of ballot
papers on
a recount

(2) The ballot papers and original statements shall continue in the custody of the returning officer, and he is responsible for them subject to any direction that the judge may give with respect thereto. 1951, c. 21, s. 134.

Who to be
present at
recount

124. The returning officer and the election clerk shall be present at the recount or final addition, and each candidate is entitled to be represented by not more than two agents, and may himself be present, and, except with the sanction of the judge, no other person shall be present. 1951, c. 21, s. 135.

125. At the time and place appointed and in the presence of such of the persons mentioned in section 124 as are present, the judge shall make the final addition from the statements contained in the ballot boxes returned by the deputy returning officer, or recount all the votes or ballot papers returned by the deputy returning officers, as the case may be, and shall, in the latter case, open all the sealed envelopes containing,

Procedure
by judge

- (a) the used ballot papers that have been counted;
- (b) the rejected ballot papers;
- (c) the cancelled ballot papers;
- (d) the declined ballot papers;
- (e) the unused ballot papers. 1951, c. 21, s. 136.

126.—(1) The judge shall, as far as practicable, proceed continuously, allowing only time for refreshment, and excluding, except so far as he and the persons present agree, the hours between 6 p.m. and 9 a.m.

Recount to
proceed
continuously

(2) During such excluded time and time for refreshment, the judge shall keep the ballot papers and other documents relating to the election secure under his own seal and the seals of such of the other persons present as desire to affix their seals, and shall otherwise take all necessary precautions for the security of such papers and documents. 1951, c. 21, s. 137, *revised*.

Care of
documents
during
recount

127. The judge shall, in the case of a recount, proceed according to the rules of the counting of the ballot papers at the close of the poll by the deputy returning officer and shall verify and correct the statement of the poll (Form 32). 1951, c. 21, s. 138.

Rules to
govern
judge in
proceedings

128.—(1) Upon the completion of the recount, the judge shall seal up all the ballot papers in their separate envelopes and, upon the completion of the final addition, he shall seal up the original statements in their respective envelopes.

Sealing up
ballots at
close of
recount

(2) If either party requests him to do so, the judge shall number on the back the disputed ballots and enclose them in a separate envelope. 1951, c. 21, s. 139.

Distinguish-
ing disputed
ballots

129.—(1) The judge shall, if necessary or required, review the decision of the returning officer with respect to the number of votes given for a candidate at any polling place where the ballot box used was not forthcoming when he made his decision, or when the proper statements or papers were not found therein.

Reviewing
decision of
R.O. when
ballot box
or docu-
ments
missing

Powers of
judge

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer. 1951, c. 21, s. 140.

When judge
to send in
certificate

130.—(1) The judge shall delay sending his certificate to the returning officer for two days after the completion of the recount or final addition in order to allow of an appeal as provided in section 133.

When
declaration
of result
to be given

(2) If no notice of appeal is given to the judge within two days after the completion of the recount or final addition, the judge shall certify forthwith the result to the returning officer who shall then declare the candidate having the largest number of votes to be elected.

Casting
vote

(3) In the case of an equality of votes, the returning officer shall give the casting vote. 1951, c. 21, s. 141.

Costs

131.—(1) The costs of the recount or final addition are in the discretion of the judge who may order by whom, to whom, and in what manner they shall be paid.

Taxing and
allowing
costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs with respect to proceedings in the county court. 1951, c. 21, s. 142.

Deposits,
disposal of

132. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the county court upon the judge's order for the balance. 1951, c. 21, s. 143.

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

Appeal from
decision of
judge

133.—(1) If a party desires to appeal from the decision of the judge who conducted the recount or final addition, he may do so on giving notice in writing to the opposite party and to that judge of his intention to appeal within two days after the completion of the recount or final addition, and he may by the notice limit the appeal to specified ballots.

Service of
notice of
appeal

(2) The notice may be served upon the opposite party personally or upon the solicitor who acted for him upon the recount or final addition personally or at his office, or as a judge of the Court of Appeal may direct.

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall seal up the ballots that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, that judge shall forward all the ballot papers and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

(4) The judge who conducted the recount or final addition shall upon request allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

(5) On receipt of the ballot papers and notice, the Registrar shall forthwith obtain an appointment from a judge of the Court of Appeal for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

(6) The time appointed for hearing the appeal shall not be more than four days from the date of the appointment.

(7) At the time appointed, the judge of the Court of Appeal shall recount the ballot papers or such of them as are the subject of appeal or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty is to conform to the decision and to certify the result without delay to the returning officer.

(8) The judge of the Court of Appeal may direct by and to whom the costs of the appeal shall be paid. 1951, c. 21, s. 144.

ELECTION RETURN

134.—(1) The returning officer shall immediately after the sixth day after the final addition by him of the number of votes given for each candidate, unless before that time he receives notice that he is required to attend before a judge for the purpose of a recount or final addition of the votes given at the election, and, where there has been a recount or final addition, immediately after the receipt of the certificate of the result, transmit his return (Form 37) to the Chief Election Officer that the candidate having the largest number of votes has been duly elected, and shall forward to each of the candidates a duplicate copy thereof.

Report by
R.O.

(2) The returning officer shall accompany his return to the Chief Election Officer with a report of his proceedings in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballot papers as received by him. 1951, c. 21, s. 145.

R.O. to
transmit
to C.E.O.
the ballot
papers, etc.

135.—(1) The returning officer shall at the same time transmit to the Chief Election Officer, enclosed in a box or other covering, securely locked, sealed with the seal of the returning officer, the writ, the list mentioned in subsection 5 of section 74, all the envelopes containing ballot papers in his possession, declarations of inability to read or to mark, poll books and all other documents sent to him by the deputy returning officers.

Endorse-
ment
thereon

(2) The returning officer shall endorse on the package a description of its contents, the date of the election to which they relate and the name of the electoral district for which the election was held, and shall affix to the outside of the package a label showing distinctly the electoral district to which the contents relate and the date of the election.

How to
be sent

(3) The packages shall be sent by express or by registered mail.

Oath of
R.O. after
transmitting
return

(4) An affidavit (Form 38) shall be made by the returning officer forthwith after transmitting his return, and it shall be transmitted forthwith by him to the Chief Election Officer by registered mail.

Return of
unused
material

(5) The returning officer shall at the same time or within ten days thereafter transmit to the Chief Election Officer in a box or other covering, securely locked and sealed with the seal of the returning officer, all the packages of ballot papers not distributed by him to the deputy returning officers, all ballot papers returned to him by the printer, all documents, papers, stationery and supplies in his possession, all receipts for paper given to him for ballot paper, and a record of all ballot paper supplied to him by the Chief Election Officer and a complete record of its disposal.

Endorse-
ment on
package

(6) The returning officer shall paste upon the box mentioned in subsection 5 a label with the words "Unused Election Material", the name of the electoral district and the date of the election written or printed thereon. 1951, c. 21, s. 146.

Application
to compel
returning
officer to
add up
votes,
make return,
etc.

136.—(1) If a returning officer wilfully delays, neglects or refuses,

(a) to add up the votes;

(b) to declare to be elected the candidate having the largest number of votes;

(c) to give his casting vote where he is by law required to do so; or

(d) to make the return, as required by this Act, of the candidate having the largest number of votes,

the person aggrieved or any voter who voted at the election may apply to a judge of the Supreme Court for a mandamus commanding the returning officer to perform the duty that he is shown to have omitted.

(2) The notice shall be served upon the returning officer and upon the persons who were candidates at the election. Notice of application

(3) In other respects, *The Judicature Act* and the rules of court made thereunder apply to such application. Application of R.S.O. 1960, c. 197

(4) Nothing in this section affects or impairs any other right or remedy of the person aggrieved. 1951, c. 21, s. 147. Other rights and remedies

137. The Chief Election Officer shall, on receiving the return of a member elected to the Assembly, give in the next ordinary issue of *The Ontario Gazette* notice of the receipt of the return, the date of such receipt and the name of the candidate elected. 1951, c. 21, s. 148. Notice of return in Ontario Gazette

CUSTODY OF ELECTION PAPERS

138.—(1) Subject to this Act, the Chief Election Officer shall retain in his possession the documents transmitted to him by the returning officer under section 135 for at least one year, and, if the election is contested, then for one year after the termination of the contestation. How long to be retained and when to be destroyed

(2) The Chief Election Officer shall keep the documents relating to a general election in a room or vault separate from that in which the documents relating to by-elections are kept. How to be kept by C.E.O.

(3) If notice of the presentation of a petition is received by the Chief Election Officer or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED". 1951, c. 21, s. 149. When documents not to be destroyed

INSPECTION OF DOCUMENTS, BALLOT PAPERS, ETC.

Inspection
of other
documents

139. All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballot papers, shall be opened to public inspection at such time and under such regulations as are prescribed by him, and he shall supply copies of or extracts from the documents to any person demanding the same on payment at the rate of 10 cents for each 100 words, and in computing the number of words a figure shall be counted as a word. 1951, c. 21, s. 150.

Inspection
to be under
order of
judge

140.—(1) No person shall be allowed to inspect any ballot paper in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

When
order to be
granted

(2) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot paper is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of a petition questioning an election or return.

Conditions
of order

(3) The order may be made subject to such conditions as the judge thinks proper.

Where
inspection
takes place

(4) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court at his office in Osgoode Hall, and he shall be present during the inspection, and, so long as the ballot papers are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key. 1951, c. 21, s. 151.

Evidence
as to docu-
ments, ballot
papers, etc.,
in certain
cases

141. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him or his agent, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballot papers so produced is evidence that the contents are what they are stated to be by the endorsement. 1951, c. 21, s. 152.

Inspection
of docu-
ments under
order of
Privileges
and
Elections
Committee

142.—(1) Notwithstanding anything in sections 139, 140 and 141, all documents, including used and unused ballot papers, relating to an election in the custody of the Chief Election Officer or of any other person, may be opened, inspected and examined under such conditions and regulations as are made by the Committee on Privileges and Elections

of the Assembly for the purpose of inquiring into any matter referred to the Committee by order of the Assembly, and upon any such proceeding before the Committee any such document may be filed as an exhibit and any person summoned to attend and give evidence before the Committee upon such inquiry may be examined or cross-examined in relation thereto.

(2) Upon such inquiry, no person is excusable as a witness upon any ground of privilege or upon the ground that his answer may expose him to criminal proceedings or to any penalty that may be imposed under any statute of Ontario. 1951, c. 21, s. 153.

PRESERVATION OF THE PEACE

143. A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the closing of the election has and may exercise the powers of a justice of the peace. 1951, c. 21, s. 154.

144. A returning officer or a deputy returning officer may require the assistance of justices of the peace, constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he deems necessary. 1951, c. 21, s. 155.

145. On a requisition in writing made by a candidate or by his agent, a returning officer shall swear in as many special constables as may be necessary. 1951, c. 21, s. 156.

146. A returning officer or deputy returning officer may arrest, or by oral order cause to be arrested and placed in the custody of a constable or other person, any person disturbing the peace and good order at the election, and may cause the person to be imprisoned under an order signed by him until an hour not later than the close of the nomination or of the poll, as the case may be. 1951, c. 21, s. 157.

SECRECY OF PROCEEDINGS

147.—(1) Every person in attendance at a polling place or at a counting of votes shall maintain and aid in maintaining the secrecy of the voting.

(2) No person shall interfere or attempt to interfere with a voter when the voter is marking his ballot paper, or attempt to obtain at the polling place information as to the candidate for whom a voter is about to vote or has voted.

Communicating
information
as to how
a voter
is voting

(3) No person shall communicate any information obtained at a polling place as to the candidate for whom a voter at the polling place is about to vote or has voted. 1951, c. 21, s. 158.

Inducing
voter to
display
ballot after
marking

148. No person shall directly or indirectly induce or attempt to induce a voter to show his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has voted. 1951, c. 21, s. 159.

Voter not
to display
marked
ballot

149. Subject to section 89, a voter shall not show his ballot paper, when marked, to any person so as to allow the name of the candidate for whom he has voted to be known. 1951, c. 21, s. 161.

Oath of
secrecy

150. Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy (Form 39). 1951, c. 21, s. 162.

Proceedings
where
officers
aware of
violation of
secrecy

151.—(1) If a returning officer, election clerk, deputy returning officer or poll clerk becomes aware or has reason to believe or suspect that any provision of the law as to secrecy has been contravened, he shall communicate the particulars with all convenient speed to the Crown attorney.

Duty of
Crown
attorney
thereon

(2) The Crown Attorney shall, on receiving such information from such officer or from any other person, forthwith inquire into the case and, if proper, prosecute the offender. 1951, c. 21, s. 163.

No one
compellable
to disclose
his vote

152. A person who has voted shall not in any legal proceeding questioning the election or return be compelled to state for whom he voted. 1951, c. 21, s. 164.

CORRUPT PRACTICES, ETC.

Bribery:

153.—(1) Every person who,

bribing voter
or procuring
bribery by
money

(a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for a voter, or to or for any person on behalf of a voter, or to or for any person in order to induce a voter to vote or refrain from voting, or corruptly does any such act on account of a voter having voted or refrained from voting at an election;

- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for a voter, or to or for any other person in order to induce a voter to vote or refrain from voting, or corruptly does any such act on account of a voter having voted or refrained from voting at an election; ^{by gift or offer or promise of employment}
- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for a person in order to induce such person to procure or endeavour to procure the return of a person to serve in the Assembly, or the vote of a voter at an election; ^{to induce anyone to procure return of candidate}
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, or promises or endeavours to procure the return of a person to serve in the Assembly, or the vote of a voter at an election; ^{receiving bribe to procure return of candidate}
- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in corrupt practices at an election, or knowingly pays or causes to be paid money to a person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; ^{advancing money to be spent in corrupt practices}
- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for his having voted, or for illegally agreeing or having agreed to vote for a candidate at an election, or on account of and as payment for his having illegally assisted or agreed to assist a candidate at an election, applies to such candidate or to his agent for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; ^{applying for money or employment in consideration of voting}
- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment ^{receiving money, office, etc., for having voted}

for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election;

receiving
money
corruptly
after election

(h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election;

giving or
promising
office to
induce
candidate to
stand or
withdraw

(i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person; or

bribing
candidate
to retire

(j) in order to induce a person to withdraw from being a candidate at an election, directly or indirectly, gives or lends, or offers or promises or agrees to give or lend, any money or valuable consideration to such person, or any other person,

is guilty of bribery and is liable to a penalty of \$200 and be imprisoned for a term of six months.

Saving as
to personal
expenses of
candidates

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act. 1951, c. 21, s. 165 (1, 2).

Dissemina-
tion of
political
information,
etc.

(3) The dissemination at any time by any means, by a candidate or his agent, of political information or material or other information or material of public interest shall not be deemed to be a corrupt or illegal act or a contravention of this Act. 1954, c. 25, s. 22.

Furnishing
meat, drink
etc., for-
bidden
except at
residence of
the person
furnishing

154.—(1) A candidate shall not, nor shall any other person, provide or furnish meat, drink, refreshment or provision at the expense of the candidate or other person at a meeting of voters assembled for the purpose of promoting the election, before or during the election, or pay or promise or engage to pay therefor, but nothing in this section extends to any meat, drink, refreshment or provision furnished to any such meeting of voters by or at the expense of any person at his usual place of residence, where the residence is a private house.

(2) Every person offending against this section is guilty ^{Penalty} of a corrupt practice and is liable to a penalty of \$100. 1951, c. 21, s. 166.

155.—(1) Every candidate who corruptly, himself or by ^{Treating} or with any person, or by any other way or means on his behalf, at any time, either before or during an election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays wholly or in part any expense incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to vote or refrain from voting at an election, is guilty of a corrupt practice and is liable to a penalty of \$200 in addition to any other penalty to which he may be liable therefor.

(2) The giving of meat, drink, refreshment or provision to voters extensively or generally by a candidate or by his agent, ^{Giving refreshments} or the taking part therein by either of them, or giving the same ^{*prima facie* evidence of corrupt practice} wholly or partly at the expense of a candidate or his agent, is *prima facie* a corrupt practice within the meaning of this section.

(3) It is not a sufficient answer to a charge of a corrupt ^{Habit of treating not sufficient answer} practice under this section that the person charged had been in the habit of treating. 1951, c. 21, s. 167.

156.—(1) Every candidate who, before or during the ^{Candidate betting} election, makes, or takes a share or interest in, or in any manner becomes a party to, a bet or wager upon the result of the election in the electoral district in any part thereof or on any event or contingency relating to the election is guilty of a corrupt practice.

(2) Every candidate or other person who provides money ^{Providing money for betting} to be used by another in betting or wagering upon the result of the election in the electoral district or in any part thereof, or on any event or contingency relating to the election, is guilty of a corrupt practice.

(3) Every person who for the purpose of influencing an ^{Other persons} election makes a bet or wager on the result thereof in the electoral district or in any part thereof, or on any event or contingency relating thereto, is guilty of a corrupt practice. 1951, c. 21, s. 168.

Hiring
conveyances
to carry
voters to
poll

157.—(1) Every candidate who himself or by any other person on his behalf and every other person who,

(a) hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or

(b) pays the travelling or other expenses of a voter in going to or returning from a polling place,

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter, other than the hirer, to or near or from or on the way to or from a polling place, is guilty of a corrupt practice and is liable to a penalty of \$100, and, if a voter, is disqualified from voting at the election; but this subsection does not apply to the carrying of voters to the poll in the conveyance mentioned in paragraph 5 of subsection 2 of section 188.

Furnishing
transporta-
tion to
voters

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to or near or from or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, is guilty of a corrupt practice and is liable to a penalty of \$100, and, if a voter, is disqualified from voting at the election.

Interpre-
tation

(3) For the purpose of this section, “conveyance” includes an automobile, horse, team, carriage, cab, vehicle, boat and vessel.

Use of
private
vehicle

(4) Except as provided in subsection 1, nothing in this Act makes it unlawful for any person to provide his own private vehicles for the purpose of taking voters to and from the poll free of charge. 1951, c. 21, s. 169.

Providing re-
freshments
on nomina-
tion day or
polling day

158. The giving or causing to be given to a voter on nomination day or on polling day, on account of his being about to vote or having voted, any meat, drink, refreshment or provision, or any money, ticket or order to enable him to procure the same, is a corrupt practice and the person so offending is liable to a penalty of \$10. 1951, c. 21, s. 170.

Undue
influence

159.—(1) Every person who, directly or indirectly, himself or by any other person on his behalf, uses or threatens to use force, violence or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction,

duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from voting, is guilty of a corrupt practice and is liable to a penalty of \$200 and to be imprisoned for one year.

(2) It is a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. 1951, c. 21, s. 171.

160.—(1) Every person who at an election applies for a ballot paper in the name of some other person whether that name be that of a person living or dead, or of a fictitious person, or who having voted applies at the same election for a ballot paper in his own name or who votes more than once at the same election, is guilty of the offence of personation. 1951, c. 21, s. 171.

(2) Every person who commits or who directly or indirectly aids or abets, counsels or procures the commission of the offence of personation is guilty of a corrupt practice and is liable to a penalty of \$400 and to be imprisoned for one year. 1951, c. 21, s. 172.

161. Every person who procures an appointment as deputy returning officer or poll clerk by false pretence, deceit or other improper means, or who acts as deputy returning officer without lawful authority, is guilty of a corrupt practice and is liable to a penalty of \$400 and to be imprisoned for one year. 1951, c. 21, s. 173.

162. Every person who knowingly appoints an election clerk, deputy returning officer or poll clerk who has at any time been found guilty by a competent tribunal of a corrupt practice, or reported by an election court for a corrupt practice, is guilty of a corrupt practice and is liable to a penalty of \$400. 1951, c. 21, s. 174.

163. Every person who votes knowing that he has no right to vote, and every person who induces or procures any other person to vote, knowing that the other person has no right to vote, is guilty of a corrupt practice and is liable to a penalty of \$200. 1951, c. 21, s. 175.

164. Every person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the election, for the purpose of promoting or securing the election of another candidate, is guilty of a corrupt

practice and is liable to a penalty of \$100, but the election of a candidate is not avoided by reason of a contravention of this section unless committed by him or by his agent. 1951, c. 21, s. 176.

Corrupt
practices by
candidate or
his agent
to avoid
election

165. If an election court determines and reports that a corrupt practice has been committed by a candidate or by his agent, whether with or without the actual knowledge and consent of the candidate, the election of the candidate, except in the case mentioned in section 166, is void. 1951, c. 21, s. 177.

When
court finds
candidate
not
personally
guilty, then
result not
affected

166. If the election court determines that an agent of a candidate was guilty of a corrupt practice that would otherwise render the election void, and further finds,

- (a) that no corrupt practice was committed at the election by the candidate personally, and that the corrupt practice of the agent was committed contrary to the order and without the sanction or connivance of the candidate;
- (b) that the candidate took all reasonable means for preventing the commission of corrupt practices at the election;
- (c) that the corrupt practice was of a trivial, unimportant and limited character; and
- (d) that in all other respects, so far as disclosed by the evidence, the election was free from any corrupt practice on the part of the candidate and his agent,

then the election of the candidate is not, by reason of the corrupt practice, void. 1951, c. 21, s. 178.

When dis-
qualification
incurred

167. No candidate or other person is disqualified or subject to any disability or penalty for a corrupt practice, except upon the judgment of an election court. 1951, c. 21, s. 179.

Candidate
guilty of
corrupt
practice
disqualified
for 8 years

168.—(1) Subject to subsection 2, where an election court determines and reports that a corrupt practice has been committed by or with the actual knowledge and consent of a candidate,*then in addition to his election, if he has been elected, being void, the candidate, during the eight years next after the date of his being so found guilty, is incapable of being elected to and of sitting in the Assembly or any municipal council and of being entered on any list of voters or registered as a

voter and of voting at an election, and of holding any office at the nomination of the Crown or of the Lieutenant Governor or any municipal office.

(2) If the election court or one of the judges thereof finds that an act constituting in law a corrupt practice was committed by a candidate, or with his actual knowledge and consent, but without any corrupt intent, and in an ignorance that was involuntary and excusable, and that the evidence showed that the candidate honestly desired, and in good faith endeavoured as far as he could, to have the election conducted according to law, the candidate is not subject to the penalties and disabilities that he would otherwise incur under subsection 1. 1951, c. 21, s. 180.

Saving where corrupt practice committed in excusable ignorance

169.—(1) Every person other than a candidate found guilty of a corrupt practice in a proceeding in which, after notice of the charge, he has had an opportunity of being heard, or who upon his own evidence given on the trial of a petition has been found to have been guilty of a corrupt practice and has been reported therefor, unless the finding and report have been reversed or set aside on appeal under *The Controverted Elections Act* is, during the eight years next after the date of his being found guilty, subject to the penalties and disabilities mentioned in section 168.

Disqualification of persons other than candidates

R.S.O. 1960, c. 65

(2) No person is subject to the penalties and disabilities referred to in subsection 1 by reason of,

Exemptions

(a) a mere technical breach of law; or

(b) an act not being an intentional contravention of law. 1951, c. 21, s. 181.

170. Where the judges who constitute the election court disagree as to a corrupt practice having been committed by a candidate or his agent, there may be an appeal as provided by *The Controverted Elections Act*, and, if the Supreme Court determines that a corrupt practice was committed, then, unless the court is of the opinion that the case falls within section 166, the election is void, but the candidate is not disqualified. 1951, c. 21, s. 182.

Appeal

171. If an election is set aside and a second election had, the second election shall be deemed to be a new election and is not avoided by reason of corrupt practices committed at the former election other than the personal acts of the candidate or of his agent done with his actual knowledge and consent, but the new election is not avoided for corrupt

Where second election held as result of protest

practices by the candidate at the former election or affecting the same which were not set up and proved at the trial and so adjudged by the election court as by law to involve the penalties and disabilities mentioned in section 168. 1951, c. 21, s. 183.

Votes to be struck off on scrutiny when corrupt practice is proved

172. If on the trial of an election petition a candidate or his agent is proved to have committed a corrupt practice with respect to a voter, there shall be struck off from the number of votes given for the candidate one vote for each voter in respect to whom the corrupt practice is proved to have been committed. 1951, c. 21, s. 184.

Election of candidate to be void for employing agent previously found guilty of corrupt practice

173. If on the trial of an election petition a candidate is proved to have personally engaged a person as a canvasser or agent, knowing that he has, within the eight years previous to the engagement, been found guilty by a competent tribunal of or reported by an election court for a corrupt practice, the election of the candidate is void. 1951, c. 21, s. 185.

Removal of disqualification on proof that disqualification was procured by perjury

174. If, at any time after a person has become disqualified, the witnesses or any of them on whose testimony he has become disqualified are convicted of perjury in respect of such testimony, the Supreme Court, upon the motion of the person disqualified and upon being satisfied that the disqualification was procured by reason of perjury, may order that the disqualification shall thereafter cease and determine. 1951, c. 21, s. 186.

Executory contracts arising out of elections, void

175. Every executory contract, promise or undertaking, in any way referring to, arising out of, or depending upon an election, even for the payment of lawful expenses, or the doing of a lawful act, is void. 1951, c. 21, s. 187.

No statutory penalty for corrupt practice where the party charged has first prosecuted a party jointly liable

176. No pecuniary penalty or forfeiture is recoverable for a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted the other person or persons or any of them for the corrupt practice; but this provision does not apply if the court or judge before whom the person claiming the benefit thereof is charged certifies that it clearly appears that the person so charged took the first step towards the commission of the offence and that he was in fact the principal offender. 1951, c. 21, s. 188.

Returning officers, etc., wilfully falsifying or altering list of voters

177. A returning officer, deputy returning officer or other person whose duty it is to deliver poll books or who has the custody of a certified list of voters or of a polling list or poll

book, who wilfully makes any alteration or insertion in or omission from or in any way wilfully falsifies such certified list, polling list or poll book, is guilty of a corrupt practice and is liable to a penalty of \$2,000 and to be imprisoned for one year. 1951, c. 21, s. 189.

178. Every person who,

Offences
relating to
ballot papers

- (a) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon;
- (b) without authority, supplies a ballot paper to any person;
- (c) fraudulently places in a ballot box a paper other than the ballot paper that he is authorized by law to place therein;
- (d) fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer;
- (e) fraudulently takes a ballot paper out of the polling place;
- (f) without authority, destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purpose of an election;
- (g) being a deputy returning officer, fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election;
- (h) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (i) being authorized by the returning officer to print the ballot papers for an election, with fraudulent intent prints more ballot papers than he is authorized to print; or
- (j) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and, in the case of a returning officer, deputy returning officer or other officer engaged in the election, is liable to imprisonment for three years, and in the case of any other person, is liable to imprisonment for one year. 1951, c. 21, s. 190.

Persons unlawfully destroying, etc., documents relating to elections, etc.

179.—(1) Every person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a writ of election, or a return to a writ of election, or a poll book, list of voters, polling list, certificate or affidavit, or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them, is guilty of a corrupt practice and is liable to a penalty of \$2,000 and to be imprisoned for one year.

Abettors punishable

(2) Every person who aids, abets, counsels or procures the commission of a contravention of subsection 1 is guilty of a corrupt practice and is liable to a penalty of \$2,000 and to be imprisoned for one year. 1951, c. 21, s. 191.

Penalty for D.R.O. omitting to initial ballots

180.—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purpose of an election is liable to a penalty of \$20 in respect of each such ballot paper.

D.R.O. or poll clerk neglecting duties

(2) Every deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 102 to 109, for each refusal or neglect, is liable to a penalty of \$200. 1951, c. 21, s. 192.

Wilful misconduct in counting ballots, etc.

181. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll is guilty of a corrupt practice and is liable to a penalty of \$200. 1951, c. 21, s. 193.

Penalty for violating secrecy

182. Every person who acts in contravention of sections 147, 148 or 149 is liable to imprisonment for a term of not more than six months. 1951, c. 21, s. 194, *amended*.

Penalty to persons aggrieved

183. Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act, in addition to any other penalty or liability to which he may be subject, forfeits to any person aggrieved thereby the sum of \$400. 1951, c. 21, s. 195.

How penalties recoverable R.S.O. 1960, c. 65

184. Subject to *The Controverted Elections Act*, and except as in this Act otherwise provided,

(a) all pecuniary penalties imposed by this Act for offences not declared to be corrupt practices, and for offences not punishable by imprisonment alone, or in addition to a pecuniary penalty or fine, are recoverable by anyone who sues for the same in any court of competent jurisdiction, and the court shall order that in default of payment of the amount

that the offender is condemned to pay, within the period fixed by the court, he shall be imprisoned for a term in the discretion of the court not exceeding one year unless the penalty and costs are sooner paid;

- (b) it is sufficient for the plaintiff in any such action to allege that the defendant is indebted to him in the sum claimed, and the particular offence for which the action is brought, and that the defendant had acted contrary to this Act;
- (c) the action shall be commenced within four months next after the act committed, or the omission complained of, and not afterwards, and shall be tried by a judge without a jury. 1951, c. 21, s. 196.

185. Except where otherwise provided, prosecutions for penalties and punishments imposed by this Act for or in respect of corrupt practices and for offences for which imprisonment alone or in addition to a pecuniary penalty or fine is imposed shall be had and taken before an election court in the manner provided by *The Controverted Elections Act*. 1951, c. 21, s. 197, *amended*. Prosecutions for corrupt practices punishable by imprisonment R.S.O. 1960, c. 65

186. In any proceeding under section 184 or 185, it is not necessary on the trial to produce the writ of election or the return thereto, or the authority of the returning officer founded upon the writ of election, but general evidence is sufficient. 1951, c. 21, s. 198. Writ, etc., need not be produced at trial

ELECTION EXPENSES, FEES, ETC.

187.—(1) Every candidate shall appoint an official agent whose name and address shall be declared in writing to the returning officer on or before the nomination day. Appointment of official agent

(2) In the event of the death or incapacity of an official agent the candidate shall forthwith appoint another official agent in his place and give notice to the returning officer of the name and address of the person appointed, which shall be published forthwith by the returning officer at the expense of the candidate in the manner provided by section 52. 1951, c. 21, s. 199. On death or incapacity of an agent appointment of another

188.—(1) No contribution, payment, loan, gift, advance or deposit of money or its equivalent in excess of \$50 shall be received by or on behalf of a candidate and no payment, except with respect to the personal expenses of a candidate, and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election, on account of the election, otherwise than through his official agent. Payments not to be made except through official agent

Interpre-
tation

(2) The expression "personal expenses" when used in this section includes the following expenses, and payment therefor may lawfully be made by the candidate personally:

1. Reasonable and *bona fide* rent or hire of halls or other places used by the candidate personally in which to address public meetings of voters, and the expenses incurred in heating, lighting and cleaning such halls or other places.
2. Reasonable and ordinary travelling and living expenses of the candidate.
3. Reasonable and ordinary travelling and living expenses of one speaker for each meeting, who accompanies the candidate and travels with him for the purpose of speaking at a public meeting to be addressed by the candidate.
4. Reasonable and ordinary charges for the hire of conveyances for the use of the candidate.
5. Reasonable and ordinary charges for use by the candidate personally of not more than one conveyance on the polling day.

Burden of
proof

(3) The onus of showing that the personal expenses paid by the candidate were fair, reasonable and proper and not in excess of what is ordinarily paid for similar services and accommodation is upon the candidate.

Receipt of
ordinary and
reasonable
charges,
when not to
disqualify
voter

(4) The contracting for or the receipt of the ordinary and reasonable charges,

- (a) by the owner or possessor of a hall or room in which to hold *bona fide* public meetings for the purposes of the election;
- (b) by a printer for printing lists of voters, election addresses or advertisements or notices of election meetings; or
- (c) by a regularly established livery-keeper for the hire of horses and vehicles used in connection with and for the proper purposes of the election and not for carrying voters otherwise than by the candidate as provided by paragraph 5 of subsection 2,

is lawful and does not disqualify him from voting. 1951, c. 21, s. 200.

189.—(1) Every person who has any claim against a candidate for or in respect of an election shall send it in within sixty days from the day of the declaration of the result of the election to the official agent of the candidate, otherwise he is barred of his right to recover it. Claims on candidates

(2) In the case of the death within such period of the person having the claim, his legal representative shall send it in within one month after probate or administration has been obtained, otherwise the right to recover it is barred. Case of death of person making claim

(3) In case of the death of the official agent or of his incapacity to act and no other agent having been appointed, the claim may be sent in or delivered to the candidate. Case of death of agent

(4) No such claim shall be paid without the authority of the candidate. 1951, c. 21, s. 201, *amended*. Candidate must authorize payment

190.—(1) Notwithstanding anything in section 189, any claim that would have been payable if sent in within sixty days of the day of the declaration may be paid by the candidate through his official agent after that time if the claim is approved by a judge of the Supreme Court or by the judge of the county court of a county in which the electoral district or some part of it is situate. Payment of accounts

(2) All claims allowed by a judge shall within one week thereafter be advertised by the returning officer at the expense of the candidate in the same newspapers in which the statement of the other election expenses was published. 1951, c. 21, s. 202. Advertising claims

191.—(1) A detailed statement of all money or its equivalent received as an election contribution, payment, loan, gift, advance or deposit and exceeding in amount or value \$50 and a detailed statement of all election expenses incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall, within three months after the election, or where, by reason of the death of the creditor, no claim has been sent in within such period of three months, then within one month after the claim has been sent in, be made out and signed by the official agent who has paid the same or by the candidate in case of payments made by him, and delivered, with the bills and vouchers relating thereto, to the returning officer. 1951, c. 21, s. 203 (1); 1954, c. 25, s. 23. Statement of election expenses, etc., to be sent by agent to R.O.

(2) The returning officer, within fourteen days after receiving the statements, shall publish at the expense of the candidate an abstract thereof in a newspaper published or circulated in the electoral district. Abstract thereof to be published

Penalty for
default in
delivering
statement

(3) Every agent or candidate who makes default in delivering the statements to the returning officer is liable to a penalty not exceeding \$25 for every day during which he so makes default.

Penalty
for false
statement

(4) Every agent or candidate who wilfully furnishes an untrue statement to the returning officer is liable to a penalty of \$400. 1951, c. 21, s. 203 (2-4).

R.O. to
preserve
bills, etc.,
and allow
inspection

192. The returning officer shall preserve all such statements, bills and vouchers, and shall, during the six months next after they have been delivered to him, permit any voter to inspect them on payment of a fee of 25 cents. 1951, c. 21, s. 204.

Tariff of
fees

193.—(1) The fees and expenses to be allowed to the officers and other persons for their services and disbursements under this Act shall be fixed by the Lieutenant Governor in Council.

Payment
of expenses
of Act

(2) The fees and expenses to be allowed to the returning officers, boards, and other officers and persons for services performed under this Act, so far as they are payable by the Province, are payable out of the Consolidated Revenue Fund.

Accountable
warrants

(3) For the purpose of providing funds for the payment of such fees and expenses, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts
and audit

(4) The sums paid out under subsection 1 shall be duly accounted for by the production of accounts and vouchers certified as provided by subsection 5, but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant Governor in Council otherwise directs.

Audit by
Auditor of
Criminal
Justice
Accounts

(5) All accounts respecting such fees and expenses shall be audited by the Auditor of Criminal Justice Accounts, and, upon the production of his certificate as to any amount remaining unpaid upon an account, the Treasurer of Ontario shall cause a cheque to be issued for the amount named in the certificate and the Provincial Auditor shall countersign it. 1951, c. 21, s. 205.

FORM 1

*The Election Act**(Section 18 (1))*AFFIDAVIT OF PERSON APPLYING TO BE ENTERED ON LIST AFTER CHANGE
OF RESIDENCE

I,, of the.....
of....., make oath and say (or
(*occupation*)
solemnly affirm):

1. That I am of the full age of 21 years (or I will be of the full age of 21 years on the.....day of....., being the date fixed for holding the poll at this election).

2. That I am a British subject.

3. That I have resided in Ontario since the.....day of....., 19.... (*naming a date at least 12 months prior to the date fixed for holding the poll*).

4. That I resided in (*state municipality from which move took place*) and was entered on the last revised list of voters for that municipality (or was entitled to be entered on the last revised list of voters for that municipality).

5. That had I continued to reside in that municipality I would have been entitled to be entered on the list of voters and to vote at this election therein.

6. That on the.....day of.....(*insert date of move*), I moved from that municipality to this city (town, village or township), and now reside at (*insert street number or lot and concession of place of residence*), and that such move took place in the pursuit of my ordinary occupation and not for the purpose of enabling me to vote at this election in this municipality.

[*Or, in the case of a person who has moved from one electoral district to another as a member of the family or household of a person who has so moved in the pursuit of his occupation:*

6. That on the.....day of.....(*insert date of move*), I moved from that municipality to this city (town, village or township) with.....as a member of his family or household, being the wife (or son or daughter or other relation or dependant, *naming the relationship or connection*) of the said....., who moved as aforesaid in the pursuit of his ordinary occupation and not for the purpose of enabling him or the members of his family to vote at this election.

7. That I now reside in this municipality.

8. That I am not disqualified from voting at this election under *The Election Act* or otherwise prohibited by law from voting or from being entered upon the list.

9. That I have not received anything nor has anything been promised to me, directly or indirectly, to induce me to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. And that I have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election.

Sworn (or affirmed) before me at the.....of..... this.....day of....., 19...	} Applicant
A Commissioner, etc. (See <i>The Election Act</i> , s. 8.)	

1951, c. 21, Form 1, *amended*.

FORM 2

The Election Act

(Section 18 (2))

CERTIFICATE OF REVISING OFFICER OR JUDGE AS TO PERSON MOVING FROM ONE ELECTORAL DISTRICT TO ANOTHER

County of..... To Wit:

I,.....(*name of revising officer or judge*),
do certify that.....(*insert
name of voter*), having duly filed with me the affidavit required by section
18 of *The Election Act* as having moved in to the Electoral District of
.....(*insert name of district*)
within two months from the day fixed for holding the poll at the election
of a member to serve in the Assembly for the said Electoral District and
having satisfied me that he is entitled to be entered on the list of voters
in the.....of.....and to vote therein at
the poll to be held on the.....day of....., 19...., I have
caused his name to be entered upon the list of voters for polling sub-
division No.....in the.....of.....as provided
by the said Act, and I believe him to be duly entitled to vote at the said
poll.

Dated this.....day of....., 19....

.....
Revising Officer or Judge
(as the case may be)

1951, c. 21, Form 2.

FORM 3

The Election Act

(Sections 21 (2), 65 (1))

DIRECTIONS FOR THE GUIDANCE OF VOTERS

The voter shall vote for one candidate only.

The voter shall go into one of the compartments and place a cross within the white space containing the name of the candidate for whom he votes, thus X.


The voter shall then fold the ballot paper so that the initials on the back and the number on the counterfoil can be seen without opening it; he shall then return the ballot paper so folded to the deputy returning officer, who shall, in full view of those present including the voter, remove the counterfoil and destroy it, and place the ballot paper in the ballot box; the voter shall then leave the polling place.

If a voter inadvertently spoils a ballot paper so that he cannot conveniently use it as he desires, he may return it to the deputy returning officer, who will give him another.


If a voter votes for more than one candidate, or places any mark on the ballot paper by which he can be identified, his vote will be void and will not be counted.

If a voter fraudulently takes a ballot paper out of the polling place, or fraudulently delivers to the deputy returning officer, to be placed in the ballot box, any other paper than the ballot paper given him by the deputy returning officer, he will be liable to imprisonment for one year.

In the following form of ballot paper, given for illustration, the candidates are Wm. R. Brown, Frank Hamon, and Joseph O'Neil, and the voter has marked his ballot paper in favour of Joseph O'Neil, and the counterfoil has been detached:



1 WM. R. BROWN
of the City of Toronto, Barrister.



2 FRANK HAMON
of the City of Toronto, Artist.



3 JOSEPH O'NEIL
of the City of Toronto, Gentleman.

X



FORM 4

The Election Act

(Section 21 (1))

To be put up at all Polling Places

NOTICE AS TO SECRECY OF VOTING

It is the sworn duty of every person in attendance at this polling place, or at the counting of the votes, not to attempt to ascertain how any person is about to vote or has voted; and not to communicate any information obtained at the polling place that may enable or assist a person to ascertain how another person has voted.

It is also the sworn duty of every such person, by all proper means to maintain, and aid in maintaining, the absolute secrecy of the voting.

Any person who acts in contravention of his duty in any of these particulars is liable to imprisonment for a term not exceeding six months.

It is further provided by *The Election Act* that no person shall destroy, take, open or otherwise interfere with any ballot box or book or packet of ballot papers or a ballot paper or ballot in use for the purposes of the election, or attempt to do so; and that any returning officer, deputy returning officer or other officer engaged in the election who is guilty of any contravention of that provision is liable to imprisonment for three years and any other person guilty of such contravention is liable to imprisonment for one year (*Section 178*).

The Election Act further provides that, in addition to every other penalty and liability, any officer engaged in the election who is guilty of any wilful act or omission in contravention of the Act forfeits to any person aggrieved thereby the sum of \$400 (*Section 183*).

A. B.,
Chief Election Officer

1951, c. 21, Form 4.

FORM 5
The Election Act
(Sections 22, 75 (4))
FORM OF POLL BOOK

Consecutive Number	NAMES OF VOTERS	Place of Residence	Occupation	Objections	Sworn or affirmed	Refused to swear or affirm or to answer	Marks indicating that Voter has voted	REMARKS

1951, c. 21, Form 5.

FORM 6

The Election Act

(Sections 24 (5), 38)

OATH OF RETURNING OFFICER

I,, Returning Officer for the Electoral District of, swear (or solemnly affirm) that I am legally qualified to act as Returning Officer for the said Electoral District, and that I will act faithfully in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (or affirmed) before me at
the.....of.....
this.....day of....., 19...

A Commissioner, etc.
(See *The Election Act*, s. 8)

.....
Returning Officer

1951, c. 21, Form 6, amended.

FORM 7

The Election Act

(Section 28 (1))

PROCLAMATION OF THE RETURNING OFFICER DECLARING THE TIME AND
PLACE FOR THE NOMINATION OF CANDIDATES
AND THE DAY FOR OPENING THE POLL

PROCLAMATION

Electoral District of

Public Notice is hereby given that in obedience to Her Majesty's Writ to me directed and bearing date the.....day of, 19....., I require the presence of the voters at the Town Hall (or as the case may be), in the County (or Township or City or Town) of.....on the.....day of, 19....., from 1 p.m. until 2 p.m., for the purpose of nominating a person to represent them in the Legislative Assembly; and notice is further given that in case a poll is demanded and allowed in the manner by law prescribed, such poll will be open on the.....day of, 19....., from 8 a.m. until 7 p.m. as follows:

For the polling subdivision No. 1, consisting of (or bounded as follows: or otherwise describing it clearly) at.....
(describing the polling place and so continuing for all the other polling subdivisions and polling places in the electoral district).

And further, that at (describe place where votes will be added up) on the.....day of, 19....., at the hour of, I shall open the ballot boxes, add up the votes given for the candidates and declare to be elected the one having the largest number of votes.

Of which all persons are hereby required to take notice and to govern themselves accordingly.

God Save the Queen.

Given under my hand at.....this.....day of, 19.....

.....
Returning Officer

1951, c. 21, Form 7.

FORM 8

The Election Act

(Section 34 (1))

COMMISSION OF ELECTION CLERK

To.....(*set forth his residence and occupation*)

In my capacity as Returning Officer for the Electoral District of, I hereby appoint you to be my Election Clerk, to act in that capacity at the pending election for the said Electoral District, which election will be opened by me on the.....day of, 19..... (*the date to be inserted here is the day of nomination*).

Given under my hand at.....this.....day of, 19.....

.....
Returning Officer1951, c. 21, Form 8, *amended*.

FORM 9

The Election Act

(Section 35)

OATH OF ELECTION CLERK

I,, appointed Election Clerk for the Electoral District of, swear (*or solemnly affirm*) that I am legally qualified to act as Election Clerk and that I will act faithfully in that capacity and also in that of Returning Officer, if I am required to act in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (*or affirmed*) before me at
the.....of.....
this.....day of....., 19.....

A Commissioner, etc.
(*See The Election Act, s. 8*)

.....
Election Clerk1951, c. 21, Form 9, *amended*.

FORM 10

The Election Act

(Section 49 (1))

PROCLAMATION WHICH THE RETURNING OFFICER IS TO CAUSE
TO BE READ ON NOMINATION DAY

Oyez! Oyez! Oyez!

All persons are commanded and strictly enjoined to keep silence while Her Majesty's Writ for the present election is publicly read.

God Save the Queen.

1951, c. 21, Form 10.

FORM 11

The Election Act
(Section 49 (2))

FORM OF NOMINATION PAPER

We, the undersigned, electors of the Electoral District of
....., hereby nominate
..... (name, residence and occupation)
as a candidate at the election about to be held of a member to represent
the said Electoral District in the Legislative Assembly. (*Where the person
nominated is absent from Ontario, add: The said
nominated in the foregoing nomination paper, is now absent from Ontario.*)

Witness our hands at....., in the said
Electoral District, this.....day of....., 19.....

Signed by the said electors in the }
presence of..... } Signatures, residences and
..... } occupations
(name, residence and occupation)

I, the said....., nominated in the foregoing
nomination paper, hereby consent to such nomination.

Witness my hand at....., this.....day of
....., 19.....

Signed by the said nominee in the }
presence of..... }
..... }
(name, residence and occupation)

1951, c. 21, Form 11, amended.

FORM 12

The Election Act
(Section 53 (1))

WITHDRAWAL OF CANDIDATE

I, a candidate nominated for the
Electoral District of....., hereby withdraw.

Dated at.....this.....day of....., 19...

.....
Witness Candidate

1951, c. 21, Form 12.

FORM 13

The Election Act

(Section 56 (1))

COMMISSION OF DEPUTY RETURNING OFFICER

To.....(*set forth his residence and occupation*)

In my capacity as Returning Officer for the Electoral District of I hereby appoint you to be Deputy Returning Officer for Polling Place No..... of the Township (*or as the case may be*) of..... in the said Electoral District, there to take the votes of the voters, and you are hereby authorized and required to open and hold the poll at the said Polling Place on the..... day of....., 19....., at 8 a.m., at (*here describe particularly the place in which the poll is to be held*), and to keep the poll open during the hours prescribed by law, and to do and perform in such polling place all acts and duties required to be performed by the Deputy Returning Officer appointed to act therefor, and, after counting the votes given, to return to me forthwith the ballot box sealed with your seal and enclosing the ballots, envelopes, polling list and other documents required by law, together with this Commission.

Given under my hand at.....this.....day of
....., 19.....

.....
Returning Officer

1951, c. 21, Form 13, *amended*.

FORM 14

The Election Act

(Section 57)

OATH OF DEPUTY RETURNING OFFICER

I,, appointed Deputy Returning Officer for Polling Place No..... of the Township (*or as the case may be*) of swear (*or solemnly affirm*) that I am legally qualified to act as Deputy Returning Officer and that I will act faithfully in that capacity without partiality, fear, favour or affection. So help me God.

Sworn (*or affirmed*) before me at
the.....of.....
this.....day of....., 19.....

A Commissioner, etc.
(*See The Election Act, s. 8.*)

.....
Deputy Returning Officer

1951, c. 21, Form 14, *amended*.

FORM 15

The Election Act

(Section 63 (5))

RECEIPT OF RETURNING OFFICER FOR BALLOT PAPER RECEIVED FROM
CHIEF ELECTION OFFICER

I,, Returning Officer for the Electoral District
of, do hereby acknowledge that I have this day
received from the Chief Election Officer.....sheets
of ballot paper,ballots to the sheet, total weight.....
the same being for use at the vote to be taken on the.....day of
....., 19....

Dated at.....this.....day of....., 19....

.....
Returning Officer

1951, c. 21, Form 15.

FORM 16

The Election Act

(Section 63 (7))

RECEIPT OF PRINTER FOR BALLOT PAPER RECEIVED FROM
RETURNING OFFICER

I (or We) do hereby acknowledge receipt of.....sheets of ballot
paper,ballots to the sheet, from the Returning Officer for
the Electoral District of....., the same to be printed
as per instructions for use at the vote to be taken on the.....day of
....., 19....

Dated at.....this.....day of....., 19....

.....
Printer

1951, c. 21, Form 16.

FORM 17

The Election Act
(Section 63 (8), 87)

FORM OF BALLOT PAPER

(Front)

The black line above the first name shall extend to the upper edge and the black line below the last name shall extend to the lower edge of the ballot paper, and all black lines shall be prolonged to the edge of the paper. The black margin to the left represents the counterfoil and the space to the left of the counterfoil represents the stub. There shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub.

1

WM. R. BROWN

of the City of Toronto, Barrister.

2

FRANK HAMON

of the City of Toronto, Artist.

3

JOSEPH O'NEIL

of the City of Toronto, Gentleman.

4

JOHN R. SMITH

of the City of Toronto, Merchant.

FORM 17—*Continued*
FORM OF BALLOT PAPER
(Back)

No. 325

No. 325

POLL BOOK

No.

D. R. O.
INITIALS

ELECTORAL DISTRICT
OF
19

FORM 18

The Election Act

(Section 63 (12))

AFFIDAVIT OF PRINTER

I,, swear (*or* solemnly affirm):

1. That by direction of the Returning Officer for the Electoral District of....., I printed the ballot papers for use at the election to be held on the.....day of....., 19....
(*insert date of polling*) on the paper furnished by him for that purpose.

2. That the attached form shows the description of the ballot papers printed by me as aforesaid.

3. That I supplied the Returning Officer with.....of such ballot papers.

4. That I returned to the Returning Officer.....spoilt ballot papers and.....unused sheets of ballot papers.

5. That no other such ballot papers were printed by or supplied by me to anyone.

Sworn (*or* affirmed) before me at
the.....of.....
this.....day of....., 19....

A Commissioner, etc.
(*See The Election Act, s. 8.*)

.....
(Printer)

(*The Returning Officer will ensure that the copy of the ballot paper is attached.*)

1951, c. 21, Form 18.

FORM 19

The Election Act

(Section 65 (2))

RECEIPT FOR BALLOT PAPERS RECEIVED FROM RETURNING OFFICER

(*Count your ballots, fill in this Form and forward at once
to Returning Officer*)

....., 19....

I,, Deputy Returning Officer for Polling Subdivision No.....in the Electoral District of....., hereby acknowledge that I have received from....., Returning Officer for the said Electoral District,books of ballot papers and have carefully examined and counted them and found that they contain.....ballots.

.....
Deputy Returning Officer

1951, c. 21, Form 19.

FORM 20

The Election Act

(Sections 67 (1), 70)

COMMISSION OF POLL CLERK

To.....(*set forth his residence and occupation*)

In my capacity of Deputy Returning Officer for Polling Place No.....of the Township (*or as the case may be*), I hereby appoint you to be Poll Clerk for the said Polling Place.

Given under my hand at.....this.....day of
....., 19.....

.....
Deputy Returning Officer

1951, c. 21, Form 20, *amended*.

FORM 21

The Election Act

(Section 67 (1))

OATH OF POLL CLERK

I, appointed Poll Clerk for Polling Place No. of the Township (*or as the case may be*) swear (*or solemnly affirm*) that I am legally qualified to act as Poll Clerk and that I will act faithfully in that capacity and also in that of Deputy Returning Officer, if I am required to act in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (*or affirmed*) before me at
the.....of.....
this.....day of....., 19.....

A Commissioner, etc.
(*See The Election Act, s. 8.*)

.....
Poll Clerk

1951, c. 21, Form 21, *amended*.

FORM 22

The Election Act

(Section 74 (1))

CERTIFICATE OF RETURNING OFFICER FOR OUTSIDE VOTERS

I,, Returning Officer
for the Electoral District of, at the request
of..... of the.....
of....., Merchant (*or as the case may be*),
an elector of the said Electoral District, who has been appointed Deputy
Returning Officer (*or Poll Clerk, or Agent for*.....
one of the Candidates at this election, *as the case may be*) for polling sub-
division No..... of the..... of.....
(*or as the case may be*) in the said Electoral District, do hereby certify
that the said..... is entitled to vote at this
election at the polling place for the said polling subdivision, being the
polling place where he is to be stationed during the polling day.

Dated at..... this..... day of, 19....

.....
Returning Officer

NOTE.—This certificate is not to be signed by the returning officer
until the name, residence and occupation of the person to whom it is
granted have been filled in.

1951, c. 21, Form 22.

FORM 23

The Election Act

(Section 77 (4))

NOTICE OF HOLDING AN ADVANCE POLL

Notice is hereby given that pursuant to *The Election Act* (section 77)
a poll for the Electoral District of..... will be open
on Thursday, Friday and Saturday, the.....
and..... days of....., 19...., from 8 a.m. until
5 p.m., and from 7 p.m. until 10 p.m.

The polling place for the said electoral district will be located at
..... for the purpose of receiving the votes of voters
who expect to be absent from the electoral district on the day fixed for
polling.

The ballot box will be opened and the votes counted at 7 p.m. on
..... the..... day of..... at the
said place.

Dated at..... this..... day of, 19....

.....
Returning Officer

1951, c. 21, Form 23, *amended*.

FORM 24

The Election Act

(Section 78 (2))

APPOINTMENT OF PROXY

I,, of the of
 in the County of, being a voter entered on the list of
 voters, with a right to vote at the pending election in the of
 in the Electoral District of, hereby
 nominate and appoint of in
 the County of, as my true and lawful
 (occupation)
 attorney for me and in my name to vote at the said election.

And I hereby certify that I am a British subject, of the full age of
 21 years, and otherwise entitled to vote at the said election.

In witness whereof I have hereunto set my hand on board the steam-
 ship at this day of
, 19.....

Witness:

}

1951, c. 21, Form 24.

FORM 25

The Election Act

(Section 78 (5))

CERTIFICATE OF REVISING OFFICER

I,, the revising officer duly appointed under
The Voters' Lists Act for the purpose of revising the list of voters to be used
 at the election now pending for the Electoral District of,
 do certify that a voter entered on the list of voters and
 having the right to vote at the pending election in the of
 in the Electoral District of, duly
 appeared before me at my sittings for the revision of the lists for the
 of and that upon the evidence
 there tendered by him (or on his behalf) I find that
 named in this appointment as a mariner, is duly qualified to vote at the
 said pending election, and that the said is a person
 duly qualified to act as proxy for the said mariner and to vote on his
 behalf at the said election.

Dated this day of, 19.....

.....
 Revising Officer

1951, c. 21, Form 25, amended.

FORM 26

The Election Act

(Section 78 (7))

FORM OF OATH TO BE ADMINISTERED TO A PROXY VOTING
FOR A MARINER

You swear (*or solemnly affirm*):

1. That you are the proxy for the mariner having the name of in the polling list now shown to you and that the said mariner signed the proxy.

2. That the said mariner is of the full age of 21 years.

3. That the said mariner is a British subject.

4. That the said mariner is not a citizen or subject of any foreign country.

5. That the said mariner has resided within Ontario for the 12 months last past, except for temporary absences as a mariner.

6. That the said mariner resided in the electoral district at the date of the issue of the writ of election and is now actually resident therein except for temporary absences as a mariner.

7. That the said mariner is not disqualified from voting at this election and is entitled to vote at this election and at this polling place.

8. That you verily believe that the said mariner has not voted at this election.

9. That you verily believe that the said mariner has not received anything or has anything been promised him directly or indirectly to induce him to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you verily believe that the said mariner has not directly or indirectly promised anything to any person to induce him to vote or refrain from voting at this election.

11. That you have not been paid or promised or received anything for or in connection with voting on behalf of the said mariner and that you verily believe that the said mariner executed the said proxy in good faith.

12. That you are voting on his behalf in good faith at this election.

So help you God.

1951, c. 21, Form 26.

FORM 27

The Election Act

(Section 83)

FORM OF OATH TO BE ADMINISTERED TO VOTER QUALIFIED UNDER
SECTION 17 (1), PARAGRAPH 1

You swear (*or solemnly affirm*):

1. That you are the person having the name of
in the polling list now shown to you (*or where a voter votes under a certificate
given under section 74 of The Election Act that you are the person named
in the certificate now shown to you*).

2. That you are of the full age of 21 years.

3. That you are a British subject.

4. That you are not disqualified under *The Election Act* or otherwise
prohibited by law from voting.

5. That you have been a resident of Ontario for the past 12 months.

6. That you were ordinarily resident in this electoral district at the
date of the issue of the writ of election.

[*Or, where the voter is the holder of a certificate under section 18:*

6. That you are the person named in the certificate now produced
by you and issued under section 18 of *The Election Act* and have been
since the issue of the said certificate and are now actually resident in this
electoral district.]

7. That you are entitled to vote at this election and at this polling
place.

8. That you have not voted at this election.

9. That you have not received anything nor has anything been prom-
ised you, directly or indirectly, to induce you to vote at this election or
for loss of time, travelling expenses or hire of conveyance.

10. That you have not directly or indirectly paid or promised any-
thing to any person to induce him to vote or refrain from voting at this
election.

So help you God.

1951, c. 21, Form 27, *amended*.

FORM 28

The Election Act

(Section 83)

FORM OF OATH TO BE ADMINISTERED TO VOTER QUALIFIED UNDER SECTION 17 (1), PARAGRAPH 2, AND MARKED "S.F." ON POLLING LIST

You swear (*or solemnly affirm*):

1. That you are the person having the name of in the polling list now shown to you (*or where a voter votes under a certificate given under section 74 of The Election Act that you are the person named in the certificate now shown to you*).

2. That you are a British subject.

3. That you are not disqualified under *The Election Act*, or otherwise prohibited by law from voting.

4. That you served or are serving as a member of the Canadian Forces within the meaning of the *National Defence Act* (Canada) or of the armed forces of any part of the Commonwealth or any ally thereof.

5. That you are an inmate or patient or employed and resident in a military hospital or institution for the reception, treatment or vocational training of persons who have so served or are so serving, or such hospital or institution for the blind or deaf or charitable institution, situated in the electoral district, namely (*naming the hospital, etc., in which the voter is a patient*).

6. That you have not voted at this election.

7. That you have not received anything nor has anything been promised to you directly or indirectly to induce you to vote at this election, or for loss of time, travelling expenses or hire of conveyance.

8. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election.

So help you God.

1951, c. 21, Form 28, *amended*.

FORM 29

The Election Act

(Section 83)

FORM OF OATH OF ALLEGIANCE

I,, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning sovereign for the time being*), her heirs and successors according to law.

So help me God.

1951, c. 21, Form 29.

FORM 30

The Election Act

(Section 89 (1, 2))

FORM OF OATH OF INABILITY TO READ

I,, of, swear (*or solemnly affirm*) that I am unable to read *or* that I am from physical incapacity unable to mark a ballot paper (*as the case may be*) .

Sworn (*or affirmed*) before me at
 the.....of.....
 this....day of....., 19...
 Having been first read over to
 the above named.....
 and signed by him in my presence
 with his mark.

 Deputy Returning Officer

.....
 (Mark of deponent to
 be made thus X)

1951, c. 21, Form 30, *amended*.

FORM 31

The Election Act

(Section 89 (3))

OATH OF FRIEND OF BLIND VOTER

I,, of the
 (*insert name of friend*)
 of, in the County of.....
, swear (*or solemnly affirm*) that I will
 (*occupation*)
 keep secret the name of the candidate for whom I mark the ballot of
, on whose behalf I act. So help me God.
 (*name of blind voter*)

Sworn (*or affirmed*) before me at
 the.....of.....
 this....day of....., 19...

 Deputy Returning Officer

.....
Signature of friend

1951, c. 21, Form 31

FORM 32

The Election Act
(Sections 106 (1), 127)

STATEMENT OF THE POLL AFTER COUNTING THE BALLOTS

Polling Place No.

Electoral District of

Number of ballot papers received from the re- turning officer.....	.....	.....
Number of ballots cast for .....	.....	.....
“ “ “ “ “
“ “ “ “ “
“ “ “ “ “
“ “ “ “ “
“ “ “ “ “
Number of ballot papers declined (Section 96)...	.....	.....
Number of ballot papers taken from polling place (Section 96).....	.....	.....
Number of ballot papers cancelled (Section 98)...	.....	.....
Number of ballot papers rejected (Section 103)...	.....	.....
Number of ballot papers not used and returned..	.....	.....
Total.....	.....	.....

We hereby certify that the above statement is correct.

Dated at this day of, 19....

.....
Deputy Returning Officer

.....
Poll Clerk

(Candidates or agents may also sign)

1951, c. 21, Form 32, *amended*.

FORM 33

The Election Act

(Section 106 (3))

CERTIFICATE TO BE DELIVERED TO CANDIDATES

I, the undersigned, Deputy Returning Officer for Polling Place No. in the of in the Electoral District of, do hereby certify that at the election held this day for a member to serve in the Legislative Assembly the hereinafter mentioned candidates received the number of ballots set opposite their respective names:

NAMES OF CANDIDATES	NUMBER OF BALLOTS
.....
.....
.....
.....
.....
.....

and also that ballot papers were rejected.

Dated at this day of, 19.....

.....
Deputy Returning Officer

1951, c. 21, Form 33, amended.

FORM 34

The Election Act

(Section 107)

OATH OF THE POLL CLERK AFTER CLOSING OF THE POLL

I,, Poll Clerk for Polling Place No. in the Electoral District of, swear (or solemnly affirm) that the poll book for the said polling place kept under the direction of, who acted as Deputy Returning Officer, has been kept by me correctly to the best of my skill and judgment; that the total number of votes polled according to the said poll book is; and that to the best of my knowledge and belief it contains a true and exact record of the voters who voted at the said polling place.

Sworn (or affirmed) before me at
the of
this day of, 19.....

A Commissioner, etc.
(See *The Election Act*, s. 8.)

.....
Poll Clerk

1951, c. 21, Form 34, amended.

FORM 35

The Election Act

(Section 109 (1))

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY
RETURNING OFFICER IS UNABLE TO DELIVER THE
BALLOT BOX TO THE RETURNING OFFICER

I,, swear (*or* solemnly affirm) that I am the person to whom Deputy Returning Officer for Polling Place No. of the of in the Electoral District of, entrusted the ballot box for the said polling place to be delivered to the Returning Officer; that the ballot box which I delivered to the Returning Officer this day is the ballot box I so received; that I have not opened it and that it has not been opened by any other person since I received it from the Deputy Returning Officer. So help me God.

Sworn (*or* affirmed) before me at
the of
this day of, 19.....

A Commissioner, etc.
(See *The Election Act*, s. 8.)

.....
Poll Clerk or Messenger

1951, c. 21, Form 35.

FORM 36

The Election Act

(Section 109 (4))

OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL

I,, Deputy Returning Officer for Polling Place No. of the Electoral District of, swear (*or* solemnly affirm) that to the best of my knowledge and belief the poll book kept for the said polling place under my direction has been kept correctly, that the total number of votes polled according to the said poll book is, and that it contains a true and exact record of the votes given at the said polling place, as the said votes were taken thereat; that I have correctly counted the votes given for each candidate, in the manner by law provided, and performed all duties required of me by law, and that the statement, polling list, poll book, envelopes containing ballot papers, and other documents required by law to be returned by me to the Returning Officer have been faithfully and truly prepared and placed in the ballot box and are contained in the ballot box returned by me to the Returning Officer, which was locked and sealed by me in accordance with *The Election Act*, and remained so locked and sealed while in my possession.

Sworn (*or* affirmed) before me at
the of
this day of, 19.....

A Commissioner, etc.
(See *The Election Act*, s. 8.)

.....
Deputy Returning Officer

1951, c. 21, Form 36, *amended*.

FORM 38

The Election Act

(Section 135 (4))

AFFIDAVIT TO BE TAKEN BY RETURNING OFFICER AFTER TRANSMITTING
HIS RETURN TO THE CHIEF ELECTION OFFICER

I,, Returning Officer for the Electoral District
of, swear (*or solemnly affirm*):

1. That, of the packets received by me as Returning Officer from the deputy returning officers in respect of the recent election for the said Electoral District, I have not opened or permitted to be opened any of the envelopes containing the ballot papers.

2. That I have not opened or permitted to be opened any of the packets so received except those authorized and directed to be opened by a returning officer under *The Election Act*.

3. That none of the other packets were opened by any person after they were returned to me by the deputy returning officers (*or in the case of a recount add*; except by the judge of the county court, on a recount).

4. That I have not ascertained and have not attempted to ascertain from the ballot papers or other contents of any of the said packets how any person voted.

5. That I have this day transmitted to the Chief Election Officer my return in respect of the said election.

So help me God.

Sworn (*or affirmed*) before me at
the.....of.....
this....day of....., 19.....

A Commissioner, etc.
(*See The Election Act, s. 8.*)

.....
Returning Officer

1951, c. 21, Form 38.

FORM 39

The Election Act

(Section 150)

OATH OF SECRECY

I,, swear (*or* solemnly affirm):

1. That I will not attempt to ascertain, and will by every means in my power prevent any other person from ascertaining, how any person is about to vote or has voted at Polling Place No. in the Electoral District of except as is necessary and proper in the case of persons blind or unable to read or incapable of marking their ballot papers as provided in *The Election Act*.

2. That I will not communicate to any person any information of any kind that may enable or assist any person to ascertain the candidate for whom any person has voted.

3. That I will in all respects maintain and aid in maintaining the absolute secrecy of the voting at this polling place.

So help me God.

Sworn (*or* affirmed) before me at
the.....of.....
this.....day of....., 19....

A Commissioner, etc.
(*See The Election Act, s. 8.*)

CHAPTER 119

The Elevators and Lifts Act

1. In this Act,

Interpre-
tation

- (a) “attendant” means a person who operates an elevator or incline lift as the whole or a part of his normal duties;
- (b) “chief inspector” means the chief inspector appointed for the purposes of this Act;
- (c) “contractor” means a person who carries on the business of constructing, installing, altering, repairing, maintaining, servicing or testing elevators, dumb-waiters, escalators, manlifts or incline lifts or parts thereof;
- (d) “Department” means the Department of Labour;
- (e) “dumb-waiter” means a mechanism affixed to a building or structure, equipped with a car or platform that moves in guides in a substantially vertical direction, the total compartment height of which does not exceed four feet, that is loaded or unloaded and controlled manually, that is used exclusively for lifting or lowering freight and that serves two or more floors or permanent levels of the building or structure, and includes its hoistway enclosure;
- (f) “elevator” means a mechanism affixed to a building or structure, equipped with a car or platform that moves in guides in a substantially vertical direction and that is used to lift or lower persons or freight in or about the building or structure, and includes its hoistway enclosure;
- (g) “engineer” means a professional engineer as defined in *The Professional Engineers Act*;
- (h) “escalator” means a power-driven, inclined, continuous stairway or runway affixed to a building or structure that is used for lifting or lowering persons

R.S.O. 1960,
c. 309

and that serves two floors or permanent levels of the building or structure, and includes its hoistway enclosure;

- (*i*) “freight” means any substance, article or thing;
- (*j*) “incline lift” means a mechanism having a power-driven rope, belt or chain, with or without handholds or seats, for lifting or lowering persons or freight on an incline, and includes a ski lift and a ski tow;
- (*k*) “inspector” means an inspector appointed for the purposes of this Act, and includes the chief inspector;
- (*l*) “insurer” means a person licensed under *The Insurance Act* to undertake public liability insurance;
- (*m*) “licence” means a licence granted under this Act;
- (*n*) “major alteration” means a major alteration as defined in the regulations;
- (*o*) “manlift” means a mechanism affixed to a building or structure that has a power-driven endless belt on which platforms or footholds are provided for lifting or lowering persons and that serves two or more floors or permanent levels of the building or structure, and includes its hoistway enclosure;
- (*p*) “maximum capacity” means the number of persons or the weight that an elevator, dumb-waiter, escalator, manlift or incline lift may carry safely as determined under the regulations;
- (*q*) “Minister” means the Minister of Labour;
- (*r*) “owner” means the person in charge of an elevator, dumb-waiter, escalator, manlift or incline lift as owner, tenant, agent or otherwise, but does not include an attendant as such;
- (*s*) “regulations” means the regulations made under this Act. 1953, c. 33, s. 1; 1954, c. 26, s. 1, *amended*.

Where Act
does not
apply

2. This Act does not apply to,

- (*a*) elevators, dumb-waiters, escalators, manlifts or incline lifts in private dwelling houses, unless the

owner of any such mechanism requests that this Act be applied to it;

- (b) elevators and hoists within the meaning of *The Mining Act*; R.S.O. 1960,
c. 241
- (c) feeding machines, or belt, bucket, scoop, roller or any similar type of freight conveyor;
- (d) freight ramps or platforms with a rise of sixty inches or less;
- (e) lubrication hoists or other similar mechanisms;
- (f) piling or stacking machines used within one storey;
- (g) temporary hoisting mechanisms used for raising and lowering persons or materials during the construction, repair, alteration or demolition of buildings, structures or works;
- (h) any class or sub-class of elevator, dumb-waiter, escalator, manlift or incline lift excluded by the regulations. 1953, c. 33, s. 2.

3.—(1) The Lieutenant Governor in Council may appoint ^{Inspectors, appointment} a chief inspector and one or more inspectors to administer and enforce this Act and the regulations.

(2) No person shall be appointed or act as an inspector ^{disqualifi-} who has any direct or indirect interest in the manufacture, sale, installation or maintenance of elevators, dumb-waiters, escalators, manlifts or incline lifts. 1953, c. 33, s. 3.

4. No person shall make an inspection of an elevator, dumb-waiter, escalator, manlift or incline lift who does not hold a certificate of competency under this Act. 1953, c. 33, s. 4. Certificate of competency

5. The Minister may authorize the chief inspector to ^{Special inspections} employ the services of any person who holds a certificate of competency under this Act to inspect any elevator, dumb-waiter, escalator, manlift or incline lift, in which case and for such purpose only such person shall be deemed to be an inspector, and to report forthwith to him with respect thereto. 1953, c. 33, s. 5.

Annual
inspection
of elevators,
etc.

6.—(1) Every elevator, dumb-waiter, escalator, manlift and incline lift shall be inspected at least once annually by an inspector or by a representative of an insurer.

Idem

(2) Notwithstanding that the elevator, dumb-waiter, escalator, manlift or incline lift has been inspected by a representative of an insurer, the chief inspector may require at any time that it be inspected by an inspector. 1953, c. 33, s. 6.

Representa-
tive's
report

7.—(1) Where an inspection of an elevator, dumb-waiter, escalator, manlift or incline lift is made by a representative of an insurer, the insurer shall within thirty days after the inspection was made, send a copy of the representative's report thereof to the chief inspector, except that where the insurer's representative finds that the elevator, dumb-waiter, escalator, manlift or incline lift is in an unsafe condition, the insurer shall, within twenty-four hours of the receipt of his representative's report, send a copy thereof to the chief inspector.

Cancellation
or rejection
of insurance

(2) Where an insurer cancels or rejects insurance on an elevator, dumb-waiter, escalator, manlift or incline lift, he shall forthwith thereafter notify in writing the chief inspector of such cancellation or rejection together with the reasons therefor. 1953, c. 33, s. 7.

C.S.A.
Safety
Code

8. In carrying out their duties the inspectors shall, subject to this Act and the regulations,

- (a) apply the Safety Code for Passenger and Freight Elevators of the Canadian Standards Association, 1938 Edition, as re-affirmed and approved by the Association in 1951, to new installations of elevators, dumb-waiters and escalators;
- (b) apply such parts of such Safety Code to major alterations of elevators, dumb-waiters or escalators as the regulations require; and
- (c) apply such parts of such Safety Code to new installations or major alterations of incline lifts as the regulations require. 1953, c. 33, s. 8.

Right to
examine
persons
under oath

9. For the purpose of an inspection or an investigation under this Act, an inspector may, by notice in writing, require the attendance before him of any person at the time and place named in the notice and may then and there examine such person under oath regarding any matter pertaining to such inspection or investigation. 1953, c. 33, s. 9.

10. An inspector, upon production of his certificate of appointment, may enter any premises where he has reason to believe that an elevator, dumb-waiter, escalator, manlift or incline lift is being installed or operated. 1953, c. 33, s. 10. ^{Right to enter premises}

11.—(1) An inspector may, by notice in writing, require an owner to prepare his elevator, dumb-waiter, escalator, manlift or incline lift, or any part of it, for inspection. ^{Notice to prepare for inspection}

(2) An inspector may require the owner of an elevator, dumb-waiter, escalator, manlift or incline lift to do or refrain from doing anything the inspector considers necessary during an inspection. ^{Duty of owner during inspection}

(3) An inspector may, by notice in writing, require an owner of an elevator, dumb-waiter, escalator, manlift or incline lift to do or refrain from doing, within the time specified in the notice, such things as the notice specifies in order to ensure compliance with this Act and the regulations. 1953, c. 33, s. 11. ^{Notice to comply with Act}

12.—(1) Any person who deems himself aggrieved by a notice or order of an inspector may, within ten days after receipt of the notice or order, appeal in writing to the Minister who shall, upon notice to all interested persons, hear the appeal and make an order approving, disapproving or varying the notice or order appealed against. ^{Appeal to Minister}

(2) The taking of an appeal under this section does not affect the suspension or revocation of a licence pending the disposition of the appeal by the Minister. 1953, c. 33, s. 12. ^{Suspension of licence not affected}

13.—(1) The chief inspector may grant a licence for any elevator, dumb-waiter, escalator, manlift or incline lift and may suspend, revoke or transfer any such licence. ^{Issue, etc., of licences}

(2) The licence shall designate the elevator, dumb-waiter, escalator, manlift or incline lift for which it is granted and the maximum capacity thereof. ^{Contents}

(3) The licence is valid for the calendar year for which it is granted, unless sooner suspended or revoked. ^{Term}

(4) The licence for an elevator shall be kept by the owner in a conspicuous position in the car of the elevator for which it is granted, and any other licence shall be kept by the owner in a conspicuous position on or adjacent to the dumb-waiter, escalator, manlift or incline lift for which it is granted. ^{Posting up}

Suspension
or revoca-
tion

(5) Where the licence of an elevator, dumb-waiter, escalator, manlift or incline lift is suspended or revoked, the chief inspector may cause such things to be done as he deems necessary to ensure that it will not be operated contrary to this Act and the regulations. 1953, c. 33, s. 13.

Drawings
and speci-
fications to
be approved

14.—(1) No person shall commence a new installation or a major alteration of an elevator, dumb-waiter, escalator, manlift or incline lift until the drawings and specifications thereof have been approved by an engineer of the Department.

Submission
of drawings
and speci-
fications

(2) The drawings and specifications shall be submitted in triplicate and shall furnish full information as to the size, composition and arrangement of the proposed new installation or major alteration.

Approval

(3) If the proposed new installation or major alteration complies with this Act and the regulations, the drawings and specifications thereof shall be approved in writing by an engineer of the Department and one set returned to the person who submitted them. 1953, c. 33, s. 14.

Notice of
failure and
accidents

15.—(1) Where an elevator, dumb-waiter, escalator, manlift or incline lift falls freely or where the emergency supporting devices engage or where an accident occurs that causes injury to any person, the owner shall give notice in writing with full particulars thereof to the chief inspector within twenty-four hours thereafter.

Notice where
accident
causes death

(2) Where an accident occurs in connection with an elevator, dumb-waiter, escalator, manlift or incline lift that results in the death of a person or in injuries that may result in the death of a person, the owner shall give notice thereof immediately after the accident by telephone or telegraph to the chief inspector, and no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident until permission so to do is given by an inspector.

Investiga-
tion of
failures and
accidents

(3) On receipt of such notice under subsection 1 or 2, the chief inspector shall cause such investigation to be made as he deems necessary to determine the cause of the occurrence or accident. 1953, c. 33, s. 15.

Obstruction
of inspector

16. No person shall hinder or obstruct an inspector in the performance of his duties. 1953, c. 33, s. 16.

17. No person shall make any false or misleading statement^{False statement} in any communication, whether in writing or otherwise, to the Minister or to an inspector concerning any matter under this Act or the regulations. 1953, c. 33, s. 17.

18. No owner of an elevator, dumb-waiter, escalator, man-lift or incline lift shall operate it or cause or permit it to be^{Compliance with Act required} operated unless it complies with this Act and the regulations. 1953, c. 33, s. 18.

19. No owner of an elevator, dumb-waiter, escalator, man-lift or incline lift shall operate it or cause or permit it to be^{Licence required} operated unless it is licensed. 1953, c. 33, s. 19.

20. If the regulations provide qualifications for attendants^{Idem} or require attendants to be licensed, no person other than a qualified attendant or a licensed attendant, as the case may be, shall operate an elevator or incline lift. 1954, c. 26, s. 2.

21.—(1) No person shall operate an elevator, dumb-waiter, escalator, manlift or incline lift or cause or permit it to be^{Unsafe operation prohibited} operated if he has reason to believe that it is in an unsafe condition. 1953, c. 33, s. 20.

(2) No person shall operate an elevator, dumb-waiter, escalator, manlift or incline lift or cause or permit it to be^{Idem} operated in an unsafe manner. 1954, c. 26, s. 3.

22. No person shall operate an elevator, dumb-waiter, escalator, manlift or incline lift or cause or permit it to be^{Excess loads} operated with a load in excess of its maximum capacity as designated in its licence. 1953, c. 33, s. 21.

23. The prohibitions contained in sections 18 to 22 do not^{Exception, ss. 18-22} apply to an inspector, or a person authorized by an inspector, during the installation, alteration, repair, testing or inspection of an elevator, dumb-waiter, escalator, manlift or incline lift. 1954, c. 26, s. 4.

24.—(1) A person who contravenes any of the provisions^{Offence} of this Act or the regulations or any notice or order made thereunder is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

(2) Where a person contravenes any of the provisions of this Act or the regulations or any notice or order made thereunder on more than one day, each such day shall be deemed to constitute a separate offence. 1953, c. 33, s. 22.

Application
of fees and
penalties

25. All fees collected under this Act and the regulations and all fines recovered for offences under this Act or the regulations shall be paid to the Treasurer of Ontario and form part of the Consolidated Revenue Fund. 1953, c. 33, s. 23.

More
stringent
provisions
not affected

26. Nothing in this Act or the regulations affects any provision of any other Act or regulation or any municipal by-law relating to hoistways or hoistway enclosures in so far as any such provision imposes additional or more stringent requirements than those contained in this Act and the regulations. 1953, c. 33, s. 24.

Regulations

27.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating classes or sub-classes of elevators, dumb-waiters, escalators, manlifts or incline lifts;
- (b) defining a major alteration for the purposes of this Act and the regulations;
- (c) prescribing qualifications for persons who may be appointed inspectors or who may make inspections under this Act;
- (d) providing for the issue of certificates of competency to inspectors and determining the period for which such certificates shall continue in force and the terms upon which they may be renewed;
- (e) providing for the issue of certificates of competency to persons other than inspectors and determining the period for which such certificates shall continue in force and the terms upon which they may be renewed;
- (f) prescribing the examination fees to be paid by an applicant for a certificate of competency;
- (g) prescribing the fee to be paid on the issue and renewal of a certificate of competency;
- (h) prescribing the reasons for which a certificate of competency may be suspended or cancelled;
- (i) regulating the use, location, design, construction, installation, operation, maintenance, ventilation, drainage, lighting, heating, alteration, repair, testing and inspection of elevators, dumb-waiters, escalators, manlifts or incline lifts and equipment used in connection therewith;

- (j) prescribing requirements as to the form and substance of the drawings and specifications to be submitted under this Act and the qualifications of persons by whom such drawings and specifications are to be prepared and certified and the fees to be paid upon submission of such drawings and specifications;
- (k) prescribing methods of determining maximum capacity for the purposes of this Act and the regulations;
- (l) making designated parts of the Safety Code referred to in section 8 applicable to major alterations of elevators, dumb-waiters or escalators, or to new installations or major alterations of incline lifts;
- (m) governing the conduct of persons in or about elevators, dumb-waiters, escalators, manlifts or incline lifts;
- (n) providing for and requiring the annual registration of contractors, prescribing the fees for the first and subsequent registrations and the conditions under which registrations may be made, suspended or cancelled;
- (o) prescribing qualifications for attendants or providing for and requiring the licensing of attendants;
- (p) prescribing the form of licences and the conditions under which licences or any class thereof may be granted, suspended, revoked or transferred or prohibiting the transfer of licences or any class thereof;
- (q) providing for fees to be paid on the grant or transfer of licences;
- (r) prescribing the fees to be paid for inspections by inspectors;
- (s) prescribing the circumstances under which expenses or special fees, or both, are to be paid and prescribing the special fees and designating the persons by whom such expenses or fees, or both, are to be paid;
- (t) requiring and prescribing the form and location of notices and markings that are to be kept in or about elevators, dumb-waiters, escalators, manlifts or incline lifts;

(u) excluding from this Act any class or sub-class of elevators, dumb-waiters, escalators, manlifts or incline lifts;

(v) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. 1953, c. 33, s. 25 (1); 1954, c. 26, s. 5.

Idem

(2) Any regulation may be made with respect to elevators, dumb-waiters, escalators, manlifts and incline lifts or with respect to any one or more of such types of mechanism or with respect to any one or more classes or sub-classes thereof.

Definitions

(3) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of the regulations.

Limitations
as to time
and place

(4) Any regulation may be limited as to time or place of application, or both. 1953, c. 33, s. 25 (2-4).

CHAPTER 120

The Embalmers and Funeral Directors Act**1. In this Act,**Interpre-
tation

- (a) “approved school” means a school or college approved by the Board;
- (b) “articled student” means a student who is articled to a licensed funeral director or a licensed embalmer in accordance with the regulations;
- (c) “Board” means the Board of Administration appointed under this Act;
- (d) “certificate of qualification” means a certificate of qualification issued under this Act;
- (e) “embalming” means the preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, ordinarily used, prepared or intended for such purpose, either by the outward application of such chemical substances, fluids or gases on the body, or by the introduction thereof into the body by vascular or hypodermic injection or by direct application into the organs or cavities, and “embalm” has a corresponding meaning;
- (f) “funeral director” means a person who operates for himself, or under his own or any other name for another person, partnership, firm or corporation, a business for the purpose of furnishing funeral supplies and services to the public;
- (g) “licence” means a licence issued under this Act, and includes a renewal thereof;
- (h) “licensed embalmer” means a person holding an embalmer’s licence under this Act;
- (i) “licensed funeral director” means a person holding a funeral director’s licence under this Act;
- (j) “Minister” means the Minister of Health;

(*k*) "permit" means a permit issued under this Act;

(*l*) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 113, s. 1; 1953, c. 34, s. 1.

Board of
Examiners

2.—(1) The Board of Administration shall consist of five persons of whom not fewer than three shall be licensed funeral directors, and such persons shall be appointed by the Lieutenant Governor in Council and hold office during pleasure. R.S.O. 1950, c. 113, s. 2 (1); 1953, c. 34, s. 2.

Officers

(2) The Lieutenant Governor in Council may appoint a member of the Board to act as chairman and another member to act as vice-chairman, and the members of the Board shall elect one of the members to be the secretary-treasurer.

Quorum

(3) Three members of the Board constitute a quorum. R.S.O. 1950, c. 113, s. 2 (2, 3).

Seat in
Assembly
not vacated
R.S.O. 1960,
c. 208

(4) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of a member of the Board, if he is a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any *per diem*, travelling or living allowance under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. 1951, c. 83, s. 4.

Staff

3. The Board may employ such officers, clerks and other persons as it requires, who shall be paid such amounts as are determined by the Board. 1953, c. 34, s. 3.

Meetings

4.—(1) The Board shall hold meetings at least three times in every year at such time and place as is deemed advisable by the majority of the members, and the Board may hold additional meetings at the call of the chairman or of any two members.

Notice of
meetings

(2) Notice of every meeting, whether general or special, shall be sent by the secretary-treasurer by registered mail to every member of the Board at his address as last entered upon the register, not fewer than seven days before the day on which the meeting is to be held.

Waiver of
notice

(3) Notwithstanding any of the provisions of this section, where all the members of the Board are present and waive notice and consent to the holding of a meeting, a meeting of the Board may be held at any time and place. R.S.O. 1950, c. 113, s. 4.

5.—(1) Where owing to the urgent nature of any situation requiring the consideration of the Board it is impossible to convene a meeting, the chairman shall act as and for the Board and shall report the circumstances of the case and the action taken thereon at the next meeting. Powers of chairman acting for Board

(2) The decision of the chairman in such circumstances is, subject to subsection 5 of section 16, final and binding unless and until reversed or altered by the Board. Effect of decision of chairman R.S.O. 1950, c. 113, s. 5.

6. In the absence of the chairman, the vice-chairman may act in his place and stead in respect of any of the matters mentioned in sections 4 and 5. 1953, c. 34, s. 4. Powers of vice-chairman acting for Board

7.—(1) The receipts and expenditures of the Board shall be audited annually by an accountant licensed to practise in Ontario by The Public Accountants Council for the Province of Ontario and who is not a member of the Board. 1953, c. 34, s. 5 (1). Audit

(2) All moneys and securities received or held by the Board shall be held in the name of "Board of Administration under *The Embalmers and Funeral Directors Act*" and the moneys may be deposited in a branch of a chartered bank or a Province of Ontario Savings Office and may be withdrawn upon the signatures of any two of the chairman, vice-chairman and secretary-treasurer. R.S.O. 1950, c. 113, s. 6 (2); 1953, c. 34, s. 5 (2). Moneys and securities

(3) The Board has power to establish an operating account in any bank described in subsection 2 and the amount in the account at any time shall not exceed \$3,000 and cheques shall be drawn upon the signature of the secretary-treasurer or such officer employed by the Board as it designates. Operating accounts

(4) Securities may be purchased and sold on the order of the Board by any two of the chairman, vice-chairman and secretary-treasurer. 1953, c. 34, s. 5 (3). Purchase of securities

8.—(1) The Board shall make a report to the Minister, on or before the 31st day of January in every year, showing, Annual report

(a) the names of all licensed embalmers and funeral directors in Ontario, specifying whether "embalmer" or "funeral director", and, in the case of a funeral director, the name under which his business is carried on;

- (b) the names of all permit holders, the period of time each permit has been in force and the reason for each renewal of permit;
- (c) the number of new certificates of qualification granted during the preceding year and the persons to whom granted;
- (d) the number of applications for certificates of qualification refused during the preceding year, and the reason for refusal;
- (e) the number of certificates of qualification revoked during the preceding year, and the reason for revocation;
- (f) the amount of fees received during the preceding year;
- (g) the revenue and expenditure of the Board during the year in detail, and the assets and liabilities at the end of the year; and
- (h) such matters as are directed by the Minister. R.S.O. 1950, c. 113, s. 7; 1958, c. 26, s. 1.

Idem

(2) The annual report shall be upon the basis of record as of the 31st day of October in the previous year.

Published
report

(3) The Board shall publish a report showing,

- (a) the number of new certificates of qualification granted;
- (b) the number of applicants for certificates of qualification refused;
- (c) the number of certificates of qualification revoked;
- (d) the financial statement; and
- (e) the list of members for the current year who are paid as of the 15th day of December in the previous year. 1953, c. 34, s. 6.

Application
of R.S.O.
1960, c. 318

9. *The Public Authorities Protection Act* applies to the members and officials of the Board. R.S.O. 1950, c. 113, s. 8.

10.—(1) No person shall act as a funeral director unless he is a licensed funeral director or is the holder of a permit. Funeral director's licence or permit required

(2) No person shall embalm a dead human body unless he is a licensed embalmer or is the holder of a permit. Embalmer's licence or permit required

(3) Subsection 2 does not apply, Exceptions

(a) to an articulated student working under the direct supervision of an embalmer;

(b) to a student of, or a person employed in, a recognized school of medicine; or

(c) in a sparsely settled area where an embalmer is not available. R.S.O. 1950, c. 113, s. 9.

(4) Where a licensed funeral director operates a business for another person, the name of the licensed funeral director shall appear on all stationery and advertisements of the business. 1958, c. 26, s. 2. Publication of name of director

11. No person shall ship a dead human body out of Ontario unless it has been embalmed and prepared for shipment by a licensed embalmer. R.S.O. 1950, c. 113, s. 10. Shipment of body out of Ontario

12.—(1) The Board may issue a funeral director's licence or an embalmer's licence to a person who, Licence renewals

(a) is the holder of a certificate of qualification;

(b) is not less than twenty years of age; and

(c) has complied with the requirements of the regulations,

and may issue renewals thereof. R.S.O. 1950, c. 113, s. 11 (1); 1953, c. 34, s. 7.

(2) For the purposes of this Act and the regulations, every licensed funeral director shall be deemed to be a licensed embalmer. Funeral director's licence

(3) Every licence and every renewal thereof expires on the 31st day of December next following the date of the licence or renewal. R.S.O. 1950, c. 113, s. 11 (2, 3). Expiration

13.—(1) For the purpose of serving the public in sparsely settled areas of Ontario, the Board may issue a permit to a person who is not the holder of a certificate of qualification. Permits

Conditions;
expiration

(2) A permit may be issued upon such terms and subject to such conditions as the Board prescribes, and every permit expires on the 31st day of December next following the date thereof or upon such earlier date as the Board determines. R.S.O. 1950, c. 113, s. 12.

Display of
licence or
permit

14. Every person who holds a funeral director's licence or permit shall cause it to be displayed to the public at all times at his place of business or the place of business where he is employed, and failure to comply with this section is *prima facie* evidence that such person is not the holder of a licence or permit. 1958, c. 26, s. 3.

Certificate of
qualification

15.—(1) The Board may issue a certificate of qualification to any person,

(a) who,

(i) has served the period of apprenticeship required by the regulations and completed a course at an approved school, or

(ii) is the holder of a certificate of qualification issued under this or any former public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors, or

(iii) satisfies the Board that for a period of not less than five years he held a licence and was engaged as an embalmer in a jurisdiction designated by the regulations;

(b) who satisfies the Board that he is of good moral character;

(c) who passes the examinations prescribed by the Board; and

(d) who pays the prescribed fee. R.S.O. 1950, c. 113, s. 14 (1); 1958, c. 26, s. 4 (1), *amended*.

Effect of
certain cer-
tificates

(2) A certificate of qualification issued under any public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors to a person who on the 30th day of June, 1947, was licensed as an embalmer or funeral director has the same force and effect as a certificate of qualification issued under this Act. R.S.O. 1950, c. 113, s. 14 (2); 1958, c. 26, s. 4 (2), *amended*.

(3) Where the holder of a certificate of qualification is not the holder of a licence for a period of three consecutive years, the certificate of qualification shall *ipso facto* be deemed to be revoked. R.S.O. 1950, c. 113, s. 14 (3); 1958, c. 26, s. 4 (3). Cancellation by failure to use

16.—(1) The Board may suspend the licence or permit of any person for such period and upon such conditions as it deems proper. R.S.O. 1950, c. 113, s. 15 (1). Suspension of licence or permit

(2) The Board may revoke the certificate of qualification and cancel the licence of any person, or may cancel the permit of any person where at least four members of the Board find that such person has been guilty of infamous or disgraceful conduct in a professional respect, as defined by the regulations. R.S.O. 1950, c. 113, s. 15 (2); 1953, c. 34, s. 8 (1). Cancellation of licence or permit

(3) Before a certificate of qualification is revoked or a permit or licence is suspended or cancelled, the Board shall, by notice in writing, advise the holder of such certificate, permit or licence of the complaint or charge made against him and shall afford him an opportunity of appearing before the Board and of presenting such evidence and making such representations as he desires. Hearing

(4) The Board has the same powers as may be conferred upon a commissioner under *The Public Inquiries Act* in respect of a hearing under this section. Power of Board at hearing
R.S.O. 1960, c. 323

(5) Any person whose certificate of qualification has been revoked or whose permit or licence has been suspended or cancelled under this section may, within thirty days after receipt of notice in writing of the decision of the Board, apply to a judge of the Supreme Court and the judge may review the decision of the Board and may make such order and give such directions as he deems proper, and his decision is final. 1953, c. 34, s. 8 (2). Appeal

17. Where the certificate of qualification of a person has been revoked, the Board may issue a certificate of qualification to him, Re-issue of certificate of qualification

(a) if he satisfies the Board that he is of good moral character and that he is a fit and proper person to be the holder of a certificate of qualification; and

(b) if he pays the prescribed fees. R.S.O. 1950, c. 113, s. 16.

Power of
Board to
enter
place of
business

18. The Board or any member thereof may enter and inspect at all reasonable times any place in which the business of a funeral director or an embalmer is carried on under this Act. 1953, c. 34, s. 9, *part*.

More than
one place
of business

19.—(1) Where a funeral director carries on business with the public at more than one place of business,

- (a) he may act as manager of only one of such places of business and each of the other places of business shall be deemed to be a branch;
- (b) he shall employ a different licensed funeral director as manager of each branch who shall have no other occupation; and
- (c) the manager of each branch shall have his ordinary residence,

(i) in the same municipality as the branch, or

(ii) within five miles of the branch. R.S.O. 1950, c. 113, s. 17; 1958, c. 26, s. 5 (1).

Corporate
business

(2) No corporation shall operate a funeral business unless at least one of the directors of the corporation is the holder of a certificate of qualification under this Act. 1953, c. 26, s. 5 (2).

Responsi-
bility for
carrying on
business of
funeral
director

20.—(1) Where a funeral director carries on business with the public for a person, partnership, firm or corporation, he is responsible for the supervision and management of the business and in respect of such business he and the person, partnership, firm or corporation for whom he carries on business are responsible for due compliance with this Act and the regulations.

Idem

(2) Where two or more funeral directors carry on business with the public, each of the funeral directors is responsible for the supervision and management of the business and for due compliance with this Act and the regulations. 1953, c. 34, s. 9, *part*.

Limitation
of actions
for negli-
gence

21. A licensed embalmer or licensed funeral director is not liable to any action for negligence or malpractice in respect of professional services requested or rendered, unless the action is commenced within three months from the date when, in the matter complained of, such professional services terminated. R.S.O. 1950, c. 113, s. 18.

22. The Board may,

Schools

- (a) approve, establish or maintain any school or college that has for its purpose instruction in embalming and general preparation for and burial of the dead human body; and
- (b) pay out of the funds held by the Board such sums as it deems proper to assist in the establishment or maintenance of any such school. R.S.O. 1950, c. 113, s. 19; 1953, c. 34, s. 10.

23. Subject to the approval of the Lieutenant Governor in Regulations Council, the Board may make regulations,

- (a) prescribing the equipment, facilities and other requirements for approved schools;
- (b) prescribing the requirements for admission to approved schools;
- (c) prescribing the courses of training and instruction for approved schools;
- (d) providing for a system of apprenticeship under articles of apprenticeship for students of approved schools and prescribing a limitation upon or otherwise regulating the number of articulated students;
- (e) providing for the registration of articulated students with the Board;
- (f) providing for the examination of candidates for certificates of qualification;
- (g) authorizing the Board to alter the requirements of section 15 and the regulations in the case of an applicant for a certificate of qualification who has had special experience or training either in or outside Ontario;
- (h) prescribing jurisdictions for the purpose of subclause iii of clause *a* of subsection 1 of section 15;
- (i) providing for special courses of training and instruction for holders of certificates of qualification and requiring holders of certificates of qualification to take all or any of such courses;

- (j) providing for the issue of certificates of qualification and the issue and renewal of licences and permits;
- (k) prescribing the fees payable to the Board by articulated students, applicants for certificates of qualification and upon the issue and renewal of licences and permits, including special fees payable in special circumstances;
- (l) prescribing minimum standards for the premises, accommodation and equipment of funeral directors and providing for the inspection and approval thereof;
- (m) governing the premises where dead human bodies may be embalmed and the methods and materials that may be used;
- (n) regulating the practice and procedure upon hearings of the Board;
- (o) defining "infamous or disgraceful conduct in a professional respect";
- (p) prescribing the books and records to be kept by the Board;
- (q) prescribing the duties of the secretary-treasurer and the assistant secretary of the Board;
- (r) providing for the employment by the Board of such persons or services as may be required and for the payment of expenses;
- (s) providing for and fixing the amount of a *per diem* allowance and an allowance for travelling and living expenses to members of the Board while engaged upon the business of the Board;
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 113, s. 20; 1953, c. 34, s. 11.

Offences

24.—(1) Every person who,

- (a) contravenes any of the provisions of section 10; or
- (b) not being the holder of a licence, holds himself out as an embalmer or uses any sign, letters, words or abbreviation implying that he is an embalmer; or

(c) not being the holder of a funeral director's licence, holds himself out as a funeral director or uses any sign, letters, words or abbreviation implying that he is a funeral director; or

(d) contravenes any of the provisions of this Act or the regulations,

is guilty of an offence and, subject to subsection 2, on summary conviction is liable to a fine of not more than \$25.

(2) Where an offence under clause *a*, *b* or *c* of subsection 1 continues beyond one day, the fine shall be not more than \$25 for each day during which the offence continues. R.S.O. 1950, c. 113, s. 21. ^{1 Continuing offences}

CHAPTER 121

The Employment Agencies Act**1. In this Act,**Interpre-
tation

(a) “employment agency” means the business of procuring for a fee, reward or other remuneration,

(i) persons for employment, or

(ii) employment for persons,

and includes the business of counselling or testing persons for a fee, reward or other remuneration to assist them in securing employment;

(b) “licence” means a licence under this Act;

(c) “regulations” means the regulations made under this Act;

(d) “supervisor” means the supervisor of employment agencies. 1960, c. 29, s. 1.

2. No person shall carry on an employment agency unless Licence required
licensed so to do by the supervisor. 1960, c. 29, s. 2.

3. Where an applicant,Issue of
licence

(a) applies in the prescribed form;

(b) pays the prescribed fee;

(c) furnishes such security as is prescribed by the regulations; and

(d) complies with the qualifications prescribed by the regulations,

the supervisor, if satisfied that the applicant is worthy of public confidence, may issue a licence to the applicant to carry on an employment agency of the class described in the licence. 1960, c. 29, s. 3.

Term of
licence

4. A licence expires on the 31st day of March next following its date of issue, unless it is sooner suspended or revoked. 1960, c. 29, s. 4.

Branches,
etc.

5. Where an employment agency is carried on in or from more than one place of business, a separate licence shall be obtained in respect of each place of business. 1960, c. 29, s. 5.

Refusal to
issue,
suspension,
etc.

6.—(1) The supervisor, after a hearing, may refuse to issue or may suspend or revoke a licence if satisfied that the applicant or licensee, as the case may be, is in breach of this Act or the regulations or for any other reason is not worthy of public confidence.

Notice of
revocation,
etc., of
licence

(2) Where the supervisor refuses to issue or suspends or revokes a licence, he shall send notice of the refusal, suspension or revocation to the applicant or licensee, as the case may be, by registered mail addressed to him at his last known address.

Appeal

(3) If the applicant or licensee, as the case may be, is dissatisfied with the decision of the supervisor, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he intended to carry on or carried on business for an order reversing the decision of the supervisor.

Idem

(4) On an application under subsection 3, the judge shall hold a hearing upon such notice as he deems proper and, after hearing the applicant, the supervisor and any evidence either of them produces, he may dismiss the application if he is not satisfied that the applicant is worthy of public confidence or he may order the supervisor to issue or reinstate the licence if he is satisfied that the applicant is worthy of public confidence. 1960, c. 29, s. 6.

Display of
licence

7. A licensee shall display his licence in a conspicuous place in the premises in which he carries on business. 1960, c. 29, s. 7.

Offence

8. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$500. 1960, c. 29, s. 8.

Regulations

9. The Lieutenant Governor in Council may make regulations,

(a) prescribing the qualifications of applicants for licences;

- (*b*) classifying employment agencies;
 - (*c*) prescribing the nature and amount of the security to be furnished by employment agencies or any class thereof;
 - (*d*) limiting and prescribing the nature of the business that shall be carried on by employment agencies or any class thereof;
 - (*e*) regulating and controlling the manner in which the business of employment agencies or any class thereof shall be carried on;
 - (*f*) prescribing the records, books and accounts that shall be kept by employment agencies or any class thereof;
 - (*g*) prescribing the fee, reward or other remuneration that may be charged by employment agencies or any class thereof for their services;
 - (*h*) requiring, providing for and prescribing the annual or other returns that shall be made to the supervisor by employment agencies or any class thereof;
 - (*i*) fixing the fees to be paid for licences for employment agencies or any class thereof;
 - (*j*) providing for the inspection of employment agencies or any class thereof;
 - (*k*) prescribing forms and providing for their use;
 - (*l*) respecting any matter or thing necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 29, s. 9.
-

CHAPTER 122

The Energy Act

INTERPRETATION

1. In this Act and in *The Ontario Energy Board Act*, Interpre-
tation
R.S.O. 1960,
c. 271
1. “appliance” means a device using only gas or fuel oil as fuel, and includes all gas or fuel oil piping, vents, tanks and controls attached or to be attached thereto, but excludes boilers and pressure vessels as defined by *The Boilers and Pressure Vessels Act*; R.S.O. 1960,
c. 37
2. “associate” means a person, whether directly or indirectly through one or more intermediaries,
- i. who has the power to direct or to cause to be directed the management and policies of any gas transmitter, distributor or storage company,
- ii. whose management and policies any gas transmitter, distributor or storage company has the power to direct or to cause to be directed,
- iii. whose management and policies any other person has the power to direct or to cause to be directed, provided that such other person has such power to direct or to cause to be directed the management and policies of any gas transmitter, distributor or storage company;
3. “Board” means the Ontario Energy Board;
4. “contractor” means a person,
- i. who carries on the business of installing, repairing or servicing appliances, or
- ii. who sells and agrees to install appliances;
5. “corporation” means a person who has the authority or seeks authority to drill for or produce gas or oil or to store, distribute or manufacture gas or to transmit any hydrocarbon;

6. "Department" means the Department of Energy Resources;
7. "distributor" means a person who supplies gas to a consumer, and "distribute" and "distribution" have corresponding meanings;
8. "fuel oil" means a hydrocarbon within the meaning of Specification 3-GP. 2C of the Canadian Government Specification Board that has a flash-point of not less than 110°F.;
9. "gas" means natural gas, manufactured gas or liquefied petroleum gas or any mixture of any of them;
10. "hydrocarbon" means a chemical compound of carbon and hydrogen, and includes any gaseous substance that may be used as fuel;
11. "inspector" means an inspector appointed under this Act;
12. "land" includes any interest in land;
13. "licence" means a licence issued under this Act;
14. "manufactured gas" means manufactured gas distributed by a public utility;
15. "Minister" means the Minister of Energy Resources;
16. "oil" means crude oil, and includes any hydrocarbon that can be recovered in liquid form from a pool through a well;
17. "owner" includes a mortgagee, lessee, tenant and occupant of land and a guardian, committee, executor, administrator or trustee in whom land is vested;
18. "permit" means a permit issued under this Act;
19. "person", in addition to its meaning in *The Interpretation Act*, includes a municipality;
20. "pipe line", except in Part II, means a pipe that carries a hydrocarbon;
21. "pressure vessel" means pressure vessel as defined by *The Boilers and Pressure Vessels Act*;

22. "producer" means a person who has the right to remove gas or oil from a well, and "produce" and "production" have corresponding meanings except when referring to documents or records;
23. "registered" means registered under this Act, and "registration" has a corresponding meaning;
24. "regulations" means the regulations made under this Act and *The Ontario Energy Board Act*; R.S.O. 1960,
c. 271
25. "storage company" means a person engaged in the business of storing gas;
26. "transmitter" means a person who carries a hydrocarbon by line as defined in Part II other than as a producer or as a distributor, and "transmit" and "transmission" have corresponding meanings;
27. "utility line" means a telephone, telegraph, electric power, gas or water line or any other line that supplies a service or commodity to the public;
28. "well" means a well drilled or bored for gas or oil, and includes a hole drilled or bored for testing the sub-surface structure, an injection well, a well for the disposal of waste substances and any other type of service well and a well for the storage of a hydrocarbon, but does not include a well for the extraction of salt or brine or a well for the supply of water, except that, where gas or oil is encountered during any drilling or boring operation, the operation thereupon becomes a well;
29. "work" means every well, equipment or pipe line and every part thereof and adjunct thereto that is used in the drilling for or production of gas or oil or the storage or distribution of gas or the transmission of a hydrocarbon or the manufacture of manufactured gas. 1960, c. 30, s. 1.

PART I

REGULATION AND INSPECTION

2.—(1) The Lieutenant Governor in Council may appoint inspectors. Appoint-
ment of
inspectors

Powers of
inspectors

(2) An inspector may, for the purposes of this Act and the regulations and for the purposes of any other Act or regulation that confers any function on an inspector,

- (a) enter in or upon, take up or use any property, real or personal, at any time;
- (b) require the production of any licence, permit or registration certificate, notice, document or record required by this Act or the regulations and examine and copy the same;
- (c) make such examinations, tests and inquiries as are necessary to ascertain whether this Act and the regulations are being complied with; and
- (d) exercise such other powers and do such other acts and things as are necessary for the carrying out of this Act and the regulations.

Idem

(3) The owner of any property and his servants, agents and employees shall furnish all means in his or their power required by the inspector for entry, inspection, testing and inquiry in the exercise of his powers and duties.

Inspector's
instructions

(4) An inspector may give instructions orally or in writing to any person with respect to any matter or thing regulated, controlled or required by this Act or the regulations or by any order of the Board and may require that his instructions be carried out within such time as he specifies.

Written
instructions

(5) If a person to whom an inspector gives oral instructions under subsection 4 requests that the instructions be put in writing, the inspector shall put the instructions in writing.

Not
required
to testify

(6) No inspector shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty except with the written permission of the Minister.

No personal
liability

(7) No inspector is personally liable for anything done by him under the authority of this Act or the regulations. 1960, c. 30, s. 2.

Inspectors
may tag
works

3.—(1) An inspector may tag a work or appliance in relation to which he has reason to believe that an offence against this Act or the regulations has been, is being or is about to be committed by attaching a tag in the prescribed form to some part of the work or appliance.

(2) An inspector who has tagged a work or appliance shall ^{Idem} forthwith notify in writing the person who appears to have the care or custody of the work or appliance of such tagging.

(3) No person, other than an inspector, shall alter, deface ^{Tag not to be removed} or destroy such a tag and no person, other than an inspector ^{to be removed} or a registered contractor who has remedied or repaired the work or appliance in accordance with requirements of the inspector, shall remove such a tag.

(4) Where such a tag is removed by a registered contractor, ^{Forward tag to inspector} he shall endorse his name and address thereon and forward the tag by registered mail to the inspector who attached the tag.

(5) Except when authorized by an inspector, no person ^{Work not to be used} shall operate, or remove hydrocarbons from, or knowingly supply hydrocarbons to, or use in any manner whatsoever, a work or appliance that has been tagged. 1960, c. 30, s. 3.

4.—(1) The Lieutenant Governor in Council may appoint ^{Chief inspectors} chief inspectors.

(2) A person who has just cause to believe that to comply ^{Appeal to chief inspector} with,

(a) an instruction given under subsection 4 of section 2;
or

(b) a tag attached under section 3,

would cause physical injury to any person or would cause an unreasonable interference with the property or services of any person may appeal therefrom by giving forthwith oral notice thereof to a chief inspector.

(3) Such oral notice may be given by telephone. ^{Idem}

(4) The chief inspector so notified may vary, rescind or ^{Idem} confirm the instruction or instruct the removal of or compliance with the tag. 1960, c. 30, s. 4.

5.—(1) No person shall, ^{Prohibitions}

(a) lease gas or oil rights from an owner other than the Crown; or

(b) produce gas or oil; or

(c) transmit or distribute gas; or

(d) transmit a hydrocarbon other than gas; or

(e) conduct a geophysical or geochemical exploration for gas or oil; or

(f) transfer liquefied petroleum gas to a pressure vessel,

unless he is the holder of a licence for such purpose, but the failure on the part of a person to comply with this subsection does not affect the validity of any contract.

Boring
machine
to be
licensed

(2) No person shall operate a machine for boring or drilling wells unless the machine is licensed.

Permit to
bore or
drill

(3) No person shall bore or drill a well, other than for exploring the sub-surface structure, unless he is the holder of a permit for such purpose.

Permit to
obtain gas

(4) Subject to the regulations, no industrial consumer shall use gas unless he is the holder of a permit for such purpose.

Gas
appliances

(5) Subject to the regulations, no person shall buy, sell or install an appliance or have or use a portable appliance or an appliance in a trailer or any other vehicle that does not bear,

(a) the seal of approval of an organization designated in the regulations; or

(b) a label issued by the Minister.

Instal-
lations, etc.

(6) Subject to the regulations, no person, other than a registered contractor, his employee or agent, shall install, repair, service or remove an appliance or any class or classes thereof.

Idem

(7) No person shall install or have installed an appliance that is to be supplied with gas by a distributor without first giving notice to the distributor of the address of the premises at which the installation is to be made and the type of appliance to be installed.

Inspection
by
distributor

(8) Where the supply of gas to a meter is turned on, no person shall use an appliance connected thereto until the distributor that supplies gas to the meter has inspected all such appliances.

Idem

(9) Every distributor shall inspect at least once every three years all appliances to which it supplies gas.

(10) A distributor shall have free access, at all reasonable ^{Idem} times and upon reasonable notice given and request made, to all parts of every building or other premises to which gas is supplied for the purpose of inspecting or repairing or of altering or disconnecting any appliance in or outside the building, or for placing meters upon any pipe or connection in or outside the building as he deems expedient, and for that purpose or for the purpose of protecting or regulating the use of a meter, may set it or alter the position of it, or any pipe, and may alter or disconnect any pipe.

(11) No person who produces natural gas in Ontario or who purchases or otherwise acquires or has entered into a ^{Removal of natural gas from Ontario} contract to purchase or otherwise acquire property in such natural gas in Ontario may remove any part of such natural gas, or cause it to be removed, from Ontario unless he is the holder of a permit for such purpose. 1960, c. 30, s. 5.

6. Where the Lieutenant Governor in Council has declared ^{Emergency measures} that an emergency exists, the Minister may, notwithstanding anything in this or any other Act, make such orders as the Minister considers necessary to maintain the supply of gas to the public or any class or classes thereof. 1960, c. 30, s. 6.

7.—(1) Every person who,

Offences

- (a) contravenes any provision of this Act or the regulations or any order of the Board; or
- (b) unduly wastes or causes to be unduly wasted any gas or oil; or
- (c) tampers or interferes with any work or appliance without authority to do so; or
- (d) knowingly makes a false statement in an application, return or statement or other material required under this Act or the regulations; or
- (e) wilfully delays or obstructs an inspector in the execution of his duties under this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000 for each day over which the offence continues, or to imprisonment for a term of not more than one year, or to both.

(2) No information may be laid under this section without ^{Permission of the Minister} the written permission of the Minister in the form prescribed by the regulations. 1960, c. 30, s. 7.

Powers of
Minister as
to licences,
etc.

8.—(1) The Minister may grant or refuse to grant a licence or permit to any person and he may, in granting a licence or permit, impose such terms and conditions as he deems proper.

Registration

(2) The Minister may register or refuse to register any person under this Act or the regulations and he may, in granting registration, impose such terms and conditions as he deems proper.

Revocation,
suspension,
etc.

(3) Upon the order of the Board, the Minister shall revoke, suspend or reinstate a licence, permit or registration or grant or refuse to grant a permit to bore or drill a well in a designated gas storage area.

Notice re
revocation or
suspension

(4) Where a licence, permit or registration is revoked or suspended, the Minister shall notify the holder in writing at his last known address by registered mail of the revocation or suspension and the holder shall forthwith forward to the Minister his licence, permit or registration certificate.

Appeal

(5) In an appeal from an order of the Board under this section, the Court of Appeal may consider any question of law, jurisdiction or fact. 1960, c. 30, s. 8.

Regulations

9.—(1) The Lieutenant Governor in Council may make regulations,

1. for the conservation of gas or oil;
2. prescribing areas where drilling for gas or oil is prohibited;
3. prescribing classes of hydrocarbons and classes of works and classes of corporations and classes of associates;
4. prescribing statutory conditions of gas or oil leases and requiring and providing for the making of statements or reports thereon;
5. regulating the construction, erection, alteration, installation, removal, operation or maintenance of any work or appliance or any class thereof;
6. regulating the location and spacing of wells;
7. prescribing the methods, equipment and materials to be used in boring, drilling, completing or operating wells;
8. requiring the keeping of drilling and production samples;

9. requiring persons who drill wells to furnish reports, returns, geological and other information and samples;
10. requiring dry or abandoned wells to be plugged or replugged and prescribing the methods, equipment and materials to be used in plugging or replugging wells;
11. prescribing the methods, equipment and materials to be used in shutting in wells;
12. regulating the repressuring, the maintenance of pressure in, or the injection of gas, oil, water or any other substance into gas or oil horizons;
13. regulating the allocation of a just and equitable share of the market demand for gas or oil to the several sources thereof and the several interests within a field or pool;
14. to provide for the designation of drainage units and requiring and regulating the joining of the various interests within a drainage unit for the purpose of drilling or operating a well and the apportioning of the costs and the benefits of such drilling or operation;
15. requiring and regulating the joining of the various interests within a field or pool for the purpose of drilling or operating wells, the designation of management and the apportioning of the costs and the benefits of such drilling or operation;
16. regulating the use of wells for the disposal of waste substances;
17. subject to *The Boilers and Pressure Vessels Act* and *The Gasoline Handling Act*, regulating the installation, use, removal, storage, handling and filling of pressure vessels for liquefied petroleum gas, and piping and attachments thereto; R.S.O. 1960, cc. 37, 161
18. regulating the conditions of agreements between distributors and consumers;
19. prescribing classes of appliances and regulating the types, construction, installation, repair, maintenance, replacement, inspection, use or removal of them, or any class of them;

20. prohibiting the sale, installation or use of appliances, or any class of them;
21. designating organizations to test appliances to specifications approved by the Minister, and to indicate their approval of any such appliances by placing a seal of approval thereon;
22. subject to *The Boilers and Pressure Vessels Act* and *The Gasoline Handling Act*, regulating safety standards and requiring and providing for the keeping of safety records and the making of safety returns, statements or reports in the drilling for, production, manufacture, processing, refining, storage, transmission, distribution, measurement, carriage by pipe line and consumption of any hydrocarbon, or any class of them;
23. requiring and providing for the inspection of appliances by distributors and prescribing the frequency with which and the manner in which such inspection shall be made;
24. providing for the issue of licences, permits and labels;
25. prescribing classes of contractors and requiring and providing for the registration of them, or any class of them;
26. prescribing classes of meters and requiring and providing for the registration of meters, or any class of them;
27. prescribing classes of licences, permits and labels and prescribing the terms and conditions upon which licences, permits or labels may be issued or registrations made;
28. prescribing the fee payable for any licence, permit, label or registration;
29. prescribing fees to be paid by corporations, or any class of them, for the inspection of works and appliances;
30. requiring and providing for the bonding or insuring of holders of licences, permits or registration certificates;

R.S.O., 1960,
cc. 37, 161

31. requiring and providing for guarantees or other security by bond or other means that works commenced under permit will be completed in accordance with this Act, the regulations or any order of the Board;
32. creating a fund to be known as the Abandoned Works Fund for the completion or removal of works and prescribing the procedures for payment of money into and out of the fund;
33. permitting the sale by the Crown of abandoned works and permitting the application of the proceeds of sale to expenses incurred in the doing of anything required to be done to or with such works;
34. permitting the Crown to cause anything to be done that the Board has ordered any person to do and permitting the Crown to recover expenses from such person;
35. prescribing forms and tags and providing for their use;
36. requiring and providing for the keeping of records and the making of returns, statements or reports on the drilling for or production of gas or oil or the storage, distribution or transmission of gas or the manufacture of manufactured gas;
37. regulating the acquisition, preparation, transportation, distribution and use of coal, coke, lignite or wood to be used as fuel;
38. regulating the acquisition, storing, transportation, distribution, sale, processing, preparation and use of uranium;
39. exempting any person or any class of persons from the operation of or compliance with this Act or the regulations, or of any of the provisions thereof;
40. exempting any appliances, or any class of them, from the operation of or compliance with this Act or the regulations, or of any of the provisions thereof;
41. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Codes

(2) Any regulation may adopt by reference, in whole or in part with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted.

Seal of approval

(3) Any regulation may designate any organization to authorize the use of its seal of approval on any work or appliance that complies with its code.

Scope of regulations

(4) Any regulation may be general or particular in its application. 1960, c. 30, s. 9.

PART II

PIPE LINES

Interpretation

10. In this Part, "line" or "pipe line" means a pipe line for the transmission of hydrocarbons, and includes any work appurtenant thereto and a branch line, but does not include gathering lines, flow lines or distribution lines and does not include other lines within or contiguous to an oil refinery, oil or petroleum storage depot, chemical processing plant or pipe line terminal. 1960, c. 30, s. 10.

Prerequisite to construction of line

11. No corporation shall construct a pipe line without first obtaining from the Board an order granting leave to construct the line under section 12. 1960, c. 30, s. 11.

Route map

12.—(1) An applicant for leave to construct a pipe line shall file with its application a map showing the general location of the proposed line and the municipalities, highways, railways, utility lines and navigable waters through, under, over, upon or across which the line is to pass.

Notice of application

(2) Notice of an application under this section shall be given by the applicant in such manner as the Board directs and shall be given to the Department of Agriculture, the Department of Municipal Affairs, the Department of Highways and such persons as the Board directs.

Objections

(3) Where an interested person desires to make objection to the application, such objection shall be given in writing to the applicant and filed with the Board within fourteen days after the giving of notice of the application and shall set forth the grounds upon which such objection is based.

Reply

(4) A reply to an objection may be given to the objector in writing and filed with the Board within fourteen days after the giving of the objection.

(5) An application under this section shall not be disposed of by the Board until after a public hearing has been held, and the hearing shall not be held until a period of at least sixty days has elapsed after the application has been filed with the Board, except that, where no objection is filed, the Board may abridge such period. ^{Public hearing}

(6) Notice of the time and place fixed by the Board for the hearing shall be given in accordance with subsection 2. ^{Notice of hearing}

(7) Where after the hearing the Board is of the opinion that the construction of the line is in the public interest, it may make an order granting leave to construct the line. ^{Power to grant leave}

(8) Leave to construct the line shall not be granted until the applicant satisfies the Board that it will offer to each land owner an agreement in a form approved by the Board. ^{Right of way agreements}

(9) In granting leave to construct a line, the Board may impose such terms and conditions as it considers proper. ^{Terms and conditions}

(10) When the Board has granted leave to construct a line, the corporation, through its officers, employees and agents, may enter into or upon any land lying in the intended route of the line and may make such surveys and examinations as are necessary for fixing the site of the line, and, failing agreement, any damages resulting therefrom shall be determined in the manner provided in section 14. 1960, c. 30, s. 12. ^{Right to enter land}

13.—(1) Where a corporation has leave to construct a pipe line under this Part or under *The Pipe Lines Act, 1958* or where a certificate has been granted under *The Gas Pipe Lines Act, 1951*, it may apply to the Board for authority to expropriate land for the purposes of the line and the Board shall thereupon set a date for the hearing of such application and such date shall be not less than fourteen days after the date of the application, and upon such application the applicant shall file with the Board a plan and description of the land required, together with the names of all persons having an apparent interest in the land. ^{Expropriation 1958, c. 78; 1951, c. 30}

(2) The applicant shall serve notice of the application and notice of the hearing on such persons and in such manner as the Board directs. ^{Procedure}

(3) Where after the hearing the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land. ^{Power to make order}

Method of
expro-
priation

(4) Where a corporation that has been authorized to expropriate land desires so to do, it shall register in the proper registry or land titles office,

(a) a copy of the order of the Board made under subsection 3 certified by the secretary of the Board; and

(b) a plan and description of the land attested by the seal of the corporation under the hands of its proper officers in that behalf and signed by an Ontario land surveyor,

and thereupon the land vests in the corporation.

Where
interest
limited

(5) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so registered shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and, when so registered, the right of possession for such limited time, or such limited estate, right or interest, thereupon vests in the corporation.

Correction
of errors

(6) In the case of any omission, misstatement or erroneous description in any plan or description, a correct plan and description may be registered with the same effect as if the original plan and description had been correct. 1960, c. 30, s. 13.

Compensation
of
1958, c. 78;
1951, c. 30

14.—(1) The corporation shall make to the owner of land acquired by expropriation under this Part, or under *The Pipe Lines Act, 1958*, or under *The Gas Pipe Lines Act, 1951*, due compensation for the land and for any damages resulting from the exercise of such power.

Determina-
tion of
amount

(2) No action or other proceeding lies in respect of such compensation and, failing agreement between the corporation and the owner, the amount thereof shall be determined in the manner provided in this section, and *The Arbitrations Act* does not apply.

R.S.O. 1960,
c. 18

Board of
arbitration

(3) The Minister shall appoint one or more persons as a board of arbitration to determine in a summary manner the amount of such compensation.

Chairman

(4) Where the board of arbitration is composed of more than one person, the Minister shall designate one of them as chairman.

(5) The Lieutenant Governor in Council may make regulations governing the practice and procedure of the board of arbitration and, until such regulations are made, the practice and procedure of the Ontario Municipal Board apply to any arbitration under this section. Procedure

(6) Where the board of arbitration is composed of more than one person, the decision of the majority of the members is the decision of the board, and, if a majority of the members fail to agree upon any matter, the decision of the chairman upon such matter is the decision of the board. Decision

(7) An appeal lies to the Ontario Municipal Board from the award of the board of arbitration. Appeal

(8) Notice of an appeal under this section shall set forth the grounds of appeal and shall be sent by registered mail by the party appealing to the secretary of the Ontario Municipal Board and to the other party within fourteen days after the making of the award or within such further time as the Ontario Municipal Board, under the special circumstances of the case, allows. Notice of appeal

(9) The hearing of an appeal under this section shall be a hearing *de novo*, and *The Ontario Municipal Board Act* applies thereto. Nature of appeal R.S.O. 1960, c. 274

(10) An appeal within the meaning of section 95 of *The Ontario Municipal Board Act* lies from the Ontario Municipal Board to the Court of Appeal, in which case that section applies. 1960, c. 30, s. 14. Further appeal

15.—(1) Where a corporation has leave to construct a pipe line, it may apply to the Board for authority to construct the line upon, under or over a highway, utility line or ditch. Crossings with leave

(2) The procedure set forth in subsections 1 and 2 of section 13 applies *mutatis mutandis* to an application under this section. Procedure

(3) Without any other leave and notwithstanding any other Act, where after the hearing the Board is of the opinion that the construction of the line upon, under or over a highway, utility line or ditch, as the case may be, is in the public interest, it may make an order authorizing the corporation so to do upon such terms and conditions as it considers proper. 1960, c. 30, s. 15. Order

Right to compensation for damages during construction

16. Where a corporation has acquired land for the purposes of its pipe line by agreement with the owner of the land, the corporation shall make to the owner of the land due compensation for any damages resulting from the exercise of its rights under the agreement, and, if the compensation is not agreed upon by the corporation and the owner, it shall be determined in the manner prescribed by section 14. 1960, c. 30, s. 16.

Right of entry and compensation
1958, c. 78;
1951, c. 80

17. Where a corporation requires at any time to enter upon any land to gain access to the right of way established under this Part, *The Pipe Lines Act, 1958* or *The Gas Pipe Lines Act, 1951*, for the purpose of maintaining, repairing, renewing or removing the line or part of it, the corporation has the right to do so without the consent of the owner of the land so entered, and compensation for any damages resulting from the exercise of such right, if not agreed upon by the corporation and the owner, shall be determined in the manner prescribed by section 14. 1960, c. 30, s. 17.

Board's decision final

18. The decision of the Board on any application to it under this Part is final and conclusive. 1960, c. 30, s. 18.

Nature of powers

19.—(1) The powers that may be conferred upon a corporation under this Part are not in derogation of but are in addition to the powers it may otherwise possess.

Where
R.S.O. 1960,
c. 335, s. 58,
not to apply

(2) Where leave to construct a line has been granted under this Part, section 58 of *The Public Utilities Act* does not apply to such line. 1960, c.30, s. 19.

Inspectors
R.S.O. 1960,
c. 331

20.—(1) One or more inspectors may be appointed under *The Public Service Act* for the purposes of this Part.

Idem

(2) The Minister may, with the approval of the Lieutenant Governor in Council, make regulations prescribing the duties of such inspectors. 1960, c. 30, s. 20.

PART III

MISCELLANEOUS

Conflict

21.—(1) In the event of conflict between this Act and any other general or special Act, this Act prevails.

Idem

(2) This Act and the regulations prevail over any by-law passed by a municipality. 1960, c. 30, s. 21.

CHAPTER 123

The Escheats Act

1. In this Act,

Interpre-
tation

- (a) "heir" means a person beneficially entitled to property of an intestate;
- (b) "property" means real property or personal property.
R.S.O. 1950, c. 116, s. 1, *amended*.

2.—(1) Where any property has become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs, or has become forfeited for any cause to the Crown, the Public Trustee may cause possession thereof to be taken in the name of the Crown, or, if possession is withheld, may cause an action to be brought for the recovery thereof, without an inquisition being first made.

(2) The proceedings in the action shall be in all respects similar to those in other actions for the recovery of property.
R.S.O. 1950, c. 116, s. 2.

3. Notwithstanding section 2, where mining lands as defined by *The Mining Act* have become forfeited to the Crown, such mining lands shall be dealt with and disposed of as Crown lands in the manner provided in *The Mining Act*.
R.S.O. 1960, c. 241

4. The Lieutenant Governor in Council may grant any property that has become the property of or has become forfeited to the Crown as mentioned in section 2, or any part thereof, or any interest therein, to any person for the purpose of transferring or restoring it to a person having a legal or moral claim upon the person to whom it had belonged, or of carrying into effect any disposition of it that such person may have contemplated, or of rewarding a person making discovery of the escheat or forfeiture, as to the Lieutenant Governor in Council seems proper. R.S.O. 1950, c. 116, s. 3, *amended*.

5. Any such grant may be made without actual entry or taking possession of such property or inquisition being first made, and, if possession of the property is withheld, the person

to whom the grant is made may institute proceedings for the recovery thereof in a court of competent jurisdiction. R.S.O. 1950, c. 116, s. 4, *amended*.

Release or
waiver of
forfeiture

6. Where any such forfeiture takes place, the Lieutenant Governor in Council may waive or release any right to which the Crown may thereby have become entitled so as to vest the property, either absolutely or otherwise, in the person who would have been entitled thereto but for the forfeiture, and the waiver or release may be either for valuable consideration or otherwise and may be upon such terms and conditions as to the Lieutenant Governor in Council seems proper. R.S.O. 1950, c. 116, s. 5.

Sale of
real estate

7.—(1) Where possession of any real estate or an interest therein has been taken by the Public Trustee under this Act, the Lieutenant Governor in Council may direct the sale of such real estate at such price and upon such terms as is determined, and the Public Trustee is thereupon authorized to sell, in accordance with the directions of the order in council, the whole or a part of such real estate or an interest therein and to convey it to the purchaser.

Sale of
personal
estate

(2) Where possession of any personal estate has been taken by the Public Trustee under this Act, he may sell it at such price and upon such terms as to him seem proper. R.S.O. 1950, c. 116, s. 6.

CHAPTER 124

The Estreats Act

1.—(1) Unless otherwise provided, all fines and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the Supreme Court or a court of general sessions of the peace, shall, upon the adjournment of such court, be entered and extracted on a roll by the registrar or clerk of the peace, as the case may be, or by some other person under the direction of a judge, which roll shall be made in duplicate and signed by the registrar or clerk or by the judge.

Entry of
fines, etc.

(2) The person by whom the roll is prepared shall, at the foot thereof, certify in the following form:

Affidavit
by clerk

I, *A. B.*, (*describing his office*), do certify that this roll is truly and carefully made up and examined, and that all fines, issues, amerciements, and forfeited recognizances, which were set, imposed, lost or forfeited, at or by the court therein mentioned, and which in right and due course of law ought to be levied and paid, are inserted in such roll; and that in the roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful error, omission, misnomer, or defect whatever.

A. B.

R.S.O. 1950, c. 118, s. 1.

2.—(1) Subject to section 8, as soon as the roll is prepared, one copy shall, in the Supreme Court, be transmitted to the office of the Registrar of the Supreme Court at Osgoode Hall, and in the general sessions shall remain deposited in the office of the clerk of the peace, and in both cases the other copy, with a writ of execution and *capias* (Form 1), shall be transmitted to the sheriff of the county or district in and for which such court was held.

Transmission
of copy of
roll

(2) Where the writ is intended to be executed in any other county or district, a certified copy of the roll, with a concurrent writ of execution and *capias* (Form 1), shall be transmitted to the sheriff of such county or district.

Idem

(3) A writ, if unexecuted, remains in force for three years and no longer, unless renewed in the manner provided in the case of other writs of execution.

Duration
of writ

Alias

(4) Where a recognizance is estreated and has not been discharged or satisfied, the court may order the issue of a new or alias writ of execution and *capias*, notwithstanding that more than three years have elapsed since the issue of the original writ. R.S.O. 1950, c. 118, s. 2.

Preparation
of roll
and issue of
execution
before ad-
journment
of court

3.—(1) At any time before the adjournment of the court, the registrar or clerk shall at the request of the Crown attorney prepare and certify a roll dealing with any one or more forfeited recognizances or fines and issue a writ of execution and *capias* in respect thereof, and such writ of execution and *capias* may be immediately placed in the hands of the sheriff for execution.

Note to be
made on
roll

(2) In any such case, the forfeiture or fine shall be mentioned in the roll and certificate required to be made up upon the adjournment of the court with an annotation of the issue of the certificate and execution, and the execution then to be issued does not apply thereto. R.S.O. 1950, c. 118, s. 3.

Mode of
proceeding
to levy fine,
etc.

4. The sheriff shall proceed to the immediate levying and recovering of such fines, issues, *amerciaments* and forfeited recognizances on the goods and chattels, lands and tenements of the persons named in the roll, or to the taking into custody of the bodies of such persons in case sufficient goods and chattels, lands or tenements cannot be found whereof the sums required can be made, and every person so taken shall be lodged in the common jail of the county or district until satisfaction is made or until the court, upon cause shown by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R.S.O. 1950, c. 118, s. 4.

Estreat of
recogniz-
ances to
county court
judges'
criminal
court and
magistrates

5.—(1) Where a person bound by a recognizance for his appearance, or for whose appearance any other person has become so bound, does not appear at the time and place required or during the time the judge of the county or district judges' criminal court or magistrate or justice of the peace has appointed, according to the terms of the recognizance, the judge or magistrate or justice shall within forty-eight hours after such failure to appear cause a record of the recognizance to be drawn up and shall sign it and return it to the clerk of the peace for the county or district with a certificate on the back thereof signed by the judge, magistrate or justice stating that the person charged has not complied with the obligation contained in the recognizance.

(2) The clerk of the peace shall make a like record of estreat of every such recognizance as in the case of other recognizances forfeited at the court of general sessions of the peace. Record of estreats at sessions

(3) The other provisions of this Act apply to every such recognizance. Application of other provisions

(4) In the case of the forfeiture of a recognizance given by or on behalf of a person for his appearance before a magistrate or justice of the peace or before the judge of the county or district judges' criminal court or by or on behalf of a person appealing from a conviction or order made in the first instance or on appeal, if the court of general sessions of the peace is not in session at the time of such forfeiture, the clerk of the peace shall prepare and certify a roll setting out the forfeited recognizance and lay it before a judge of the county court in chambers, and the judge may thereupon by memorandum upon the roll order the estreating of such recognizance, and the clerk of the peace shall thereupon proceed as in other cases provided for by this Act. When recognizance forfeited while court not in session R.S.O. 1950, c. 118, s. 5.

6. Where a person bound by recognizance for his appearance, or for whose appearance any other person has become so bound, to prosecute or give evidence in the case of an offence for the commission of which a fine or penalty is imposed that the Province is entitled to receive makes default, the officer of the court by whom the estreats are made out shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person or his surety was so bound, together with the residence, trade, profession or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of his non-appearance, the ends of justice have been defeated or delayed. Report by officer of the court R.S.O. 1950, c. 118, s. 6.

7. Every officer before a recognizance is estreated shall lay the list before a judge of the court, who shall examine the list and make such order touching the estreating or putting in process the recognizance as appears just, and no officer of the court shall estreat or put in process a recognizance without the written order of the judge before whom the list has been laid. Estreat of recognizances, etc. R.S.O. 1950, c. 118, s. 7.

Forbearance
from estreat

8.—(1) Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become so bound, to prosecute or give evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the court, the court, on consideration of the cause and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated, and with respect to all recognizances estreated and all fines imposed by any court for the non-attendance of a juror or constable, or of a public officer bound to attend at the court, if it appears to the satisfaction of the judge who presided thereat that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance was owing to circumstances that rendered his absence justifiable, the judge may make an order directing that the sum forfeited upon the estreated recognizance or the fine imposed not be levied.

Forbearance
from levying
fines, etc.

(2) The clerk before sending to the sheriff the roll, with the writ of execution and *capias*, shall submit the same to the judge for his revision, and the judge may make a minute on the roll and writ of any forfeited recognizances and fines that he thinks fit to direct not to be levied, and the sheriff shall observe the direction of the minute, and shall accordingly forbear to levy the forfeited recognizance or fine. R.S.O. 1950, c. 118, s. 8.

Procedure
where lands
are seized

9. Where the sheriff takes land or tenements in execution, his duties and the practice and procedure as to the sale shall be the same as in other cases of execution against lands. R.S.O. 1950, c. 118, s. 9.

Conditions
upon which
a party in
custody of
the sheriff
may be
released

10. If a person on whose goods and chattels a sheriff is authorized to levy a forfeited recognizance gives security to the sheriff for his appearance in the court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the court sits, then and there to abide the decision of the court, and also to pay the forfeited recognizance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as are adjudged and ordered by the court, such person shall be discharged out of custody, and, if he does not appear in pursuance of his undertaking, the court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound. R.S.O. 1950, c. 118, s. 10.

11. The court into which a writ of execution and capias is returnable may inquire into the circumstances of the case and may order the discharge of the whole of the forfeited recognizance, or sum paid or to be paid in lieu of satisfaction thereof, and may make such order thereon as to the court appears just, and the order is a discharge to the sheriff or to the party, according to the circumstances of the case. R.S.O. 1950, c. 118, s. 11.

Discharge of
forfeited
recogniz-
ances, etc.

12. The sheriff to whom a writ is directed shall with his return state on the back of the roll attached to the writ what has been done in the execution thereof, and the return shall be filed in the proper office of the court into which it is made. R.S.O. 1950, c. 118, s. 12.

Manner of
return by
sheriff, etc.

13. A copy of the roll and return, certified by the clerk of the peace or by the local registrar of the Supreme Court, shall be forthwith transmitted to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned that have been remitted by order of the court, in whole or in part, or directed to be forborne under this Act. R.S.O. 1950, c. 118, s. 13.

Certified
return to
Inspector of
Legal Offices

14. The sheriff shall, without delay, pay over all money collected by him to the Treasurer of Ontario or other officer or person entitled to receive it. R.S.O. 1950, c. 118, s. 14.

Payment to
Treasurer
of Ontario

15. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules regulating the practice and procedure for the estreating of recognizances in the Supreme Court or in the court of general sessions of the peace. R.S.O. 1950, c. 118, s. 15.

Rules

16.—(1) This Act applies to any bond, recognizance or other security furnished under any statute of Ontario by or on behalf of any person for his appearance before a magistrate or a justice or for the prosecution of any appeal in any matter or case punishable on summary conviction or in which an appeal lies from a conviction or order made by a judge, magistrate or justice.

Recogniz-
ances to
prosecute
appeal from
convictions,
etc.

(2) Rules may be made for regulating the practice upon the estreating of any such bond, recognizance or other security by the same authority and in the same manner as under section 15. R.S.O. 1950, c. 118, s. 16.

Rules

FORM 1

The Estreats Act

(Section 2)

WRIT OF EXECUTION AND CAPIAS

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom,
Canada and Her other Realms and Territories Queen, Head of the
Commonwealth, Defender of the Faith.

To the Sheriff of, Greeting:

You are hereby commanded to levy of the goods and chattels, lands
and tenements of each of the persons mentioned in the roll or extract
to this writ annexed, all and singular the debts and sums of money upon
them severally imposed and charged as therein is specified; and if any
of the said several debts cannot be levied by reason that no goods or
chattels, lands or tenements can be found belonging to the said persons
respectively, then, and in all such cases, you are to take the bodies of
such persons and keep them safely in the jail of your county (*or district*),
there to abide the judgment of Our Supreme Court (*or Court of General
Sessions of the Peace, as the case may be*) upon any matter to be shown
by them respectively, or otherwise to remain in your custody as aforesaid
until such debt is satisfied, unless any of such persons respectively gives
sufficient security for his appearance at the said court within thirty days
after the giving of the security, or so soon thereafter as the court sits,
for which you will be held answerable; and what you do in the premises
make appear before Us in Our Supreme Court at Toronto (*or at the next
Court of General Sessions of the Peace for the county (or district) of
.....*) immediately after the execution hereof and have
then and there this writ.

Witness my hand.....this.....day
of....., 19.....

.....
A. B.
Registrar (*or Clerk of the Peace or as the case may be*)
for the County of.....

R.S.O. 1950, c. 118, Form 1.

CHAPTER 125

The Evidence Act

1. In this Act,

Interpre-
tation

- (a) “action” includes an issue, matter, arbitration, reference, investigation, inquiry, a prosecution for an offence committed against a statute of Ontario or against a by-law or regulation made under any such statute and any other proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of Ontario;
- (b) “court” includes a judge, arbitrator, umpire, commissioner, magistrate, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence. R.S.O. 1950, c. 119, s. 1.

2. This Act applies to all actions and other matters whatsoever respecting which the Legislature has jurisdiction. 1960, c. 31, s. 1, *part*.

Application
of Act

3.—(1) Where by any Act of the Legislature or order of the Assembly an oath is authorized or directed to be administered, the oath may be administered by any person authorized to take affidavits in Ontario.

Administra-
tion of
oaths

(2) Every court has power to administer or cause to be administered an oath to every witness who is called to give evidence before the court. 1960, c. 31, s. 1, *part*.

by courts

4. Where an oath or declaration is directed to be made before a person, he has power and authority to administer it and to certify to its having been made. 1960, c. 31, s. 1, *part*.

Certification

5. No person offered as a witness in an action shall be excluded from giving evidence by reason of any alleged incapacity from crime or interest. R.S.O. 1950, c. 119, s. 3.

Witnesses,
not in-
capacitated
by crime, etc.

6. Every person offered as a witness shall be admitted to give evidence notwithstanding that he has an interest in the matter in question or in the event of the action and notwithstanding that he has been previously convicted of a crime or offence. R.S.O. 1950, c. 119, s. 4.

Admissi-
bility not-
withstanding
interest or
crime

Evidence
of parties

7. The parties to an action and the persons on whose behalf it is brought, instituted, opposed or defended are, except as hereinafter otherwise provided, competent and compellable to give evidence on behalf of themselves or of any of the parties, and the husbands and wives of such parties and persons are, except as hereinafter otherwise provided, competent and compellable to give evidence on behalf of any of the parties. R.S.O. 1950, c. 119, s. 5.

Evidence of
husband
and wife

8. Without limiting the generality of section 7, a husband or a wife may in an action give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. R.S.O. 1950, c. 119, s. 6.

Witness not
excused from
answering
questions
tending to
criminate

9.—(1) A witness shall not be excused from answering any question upon the ground that the answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of the Legislature.

Answer not
to be used
in evidence
against him

(2) If, with respect to a question, a witness objects to answer upon any of the grounds mentioned in subsection 1 and if, but for this section or any Act of the Parliament of Canada, he would therefore be excused from answering such question, then, although he is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him in any civil proceeding or in any proceeding under any Act of the Legislature. R.S.O. 1950, c. 119, s. 7.

Evidence in
proceedings
in conse-
quence of
adultery

10. The parties to a proceeding instituted in consequence of adultery and the husbands and wives of such parties are competent to give evidence in such proceeding; provided that no witness in any such proceeding, whether a party to the suit or not, is liable to be asked or bound to answer any question tending to show that he or she is guilty of adultery, unless such witness has already given evidence in the same proceeding in disproof of his or her alleged adultery. R.S.O. 1950, c. 119, s. 8; 1960, c. 31, s. 2.

Communica-
tions made
during
marriage

11. A husband is not compellable to disclose any communication made to him by his wife during the marriage, nor is a wife compellable to disclose any communication made to her by her husband during the marriage. R.S.O. 1950, c. 119, s. 9.

Expert
evidence

12. Where it is intended by a party to examine as witnesses persons entitled, according to the law or practice, to give

opinion evidence, not more than three of such witnesses may be called upon either side without the leave of the judge or other person presiding. R.S.O. 1950, c. 119, s. 10; 1960, c. 31, s. 3.

13. The plaintiff in an action for breach of promise of marriage shall not recover unless his or her testimony is corroborated by some other material evidence in support of the promise. R.S.O. 1950, c. 119, s. 11.

14. In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.S.O. 1950, c. 119, s. 12.

15. In an action by or against a mentally incompetent person so found, or a patient in a mental hospital, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence, unless such evidence is corroborated by some other material evidence. R.S.O. 1950, c. 119, s. 13.

16. An examination for discovery, or any part thereof, of an officer or servant of a corporation made under the rules of court may be used as evidence at the trial by any party adverse in interest to the corporation, subject to such protection to the corporation as the rules of court provide. 1960, c. 31, s. 4.

17. Where an oath may be lawfully taken, it may be administered to a person while such person holds in his hand a copy of the Old or New Testament without requiring him to kiss the same, or, when he objects to being sworn in this manner or declares that the oath so administered is not binding upon his conscience, then in such manner and form and with such ceremonies as he declares to be binding. R.S.O. 1950, c. 119, s. 14.

18.—(1) Where a person objects to being sworn from conscientious scruples, or on the ground of his religious belief, or on the ground that the taking of an oath would have no binding effect on his conscience, he may, in lieu of taking an oath, make an affirmation or declaration that is of the same force and effect as if he had taken an oath in the usual form.

Certifying
affirmation

(2) Where the evidence is in the form of an affidavit or written deposition, the person before whom it is taken shall certify that the deponent satisfied him that he was a person entitled to affirm. R.S.O. 1950, c. 119, s. 15.

Evidence
of child

19.—(1) In any legal proceeding where a child of tender years is offered as a witness and the child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath, the evidence of the child may be received though not given upon oath, if, in the opinion of the judge, justice or other presiding officer, as the case may be, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Corrobor-
ation

(2) No case shall be decided upon such evidence unless it is corroborated by some other material evidence. 1959, c. 31, s. 1.

Attendance
of witnesses

20. A witness served in due time with a subpoena issued out of a court in Ontario, and paid his proper witness fees and conduct money, who makes default in obeying such subpoena, without any lawful and reasonable impediment, in addition to any penalty he may incur as for a contempt of court, is liable to an action on the part of the person by whom, or on whose behalf, he has been subpoenaed for any damage that such person may sustain or be put to by reason of such default. R.S.O. 1950, c. 119, s. 16.

[The following provisions were enacted by the Province of Canada as part of Chapter 9 of 1854. They were carried into the Consolidated Statutes of Canada, 1859 as sections 4-11 and 13 of Chapter 79. They have appeared in their present form in successive revisions since Confederation. See Rideout vs Rideout (1956) O.W.N. 644.]

Courts may
issue sub-
poenas to
any part of
Canada

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada.

Service
thereof in
any part of
Canada to
be good

5. The service of any such writ or process in any part of Canada, shall be valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court.

When not to
be issued

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order. Writs to be specially noted

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof, and of such default to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpoena or other similar process issued out of such last mentioned Court. Consequences of disobedience

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Court of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process was served upon him. If expenses paid or tendered

10. The service of such writs of subpoena or other similar process, in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same. How service proved

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders. Costs of attendance provided for

13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court. Power to issue commissions to examine witnesses preserved

21. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him, but, if it is intended to contradict him by the writing, his attention shall, before such contradictory proof is given, be called to those parts of the writing that are to be used for the purpose of so contradicting him, and the judge or other person presiding at any time during the trial or proceeding may require the production of the writing for his inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as he thinks fit. R.S.O. 1950, c. 119, s. 17. Examination of witnesses, proof of contradictory written statements

Proof of contradictory oral statements

22. If a witness upon cross-examination as to a former statement made by him relative to the matter in question and inconsistent with his present testimony does not distinctly admit that he did make such statement, proof may be given that he did in fact make it, but before such proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. R.S.O. 1950, c. 119, s. 18.

Proof of previous conviction of a witness

23.—(1) A witness may be asked whether he has been convicted of any crime, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved, and a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the officer, is, upon proof of the identity of the witness as such convict, sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

Fee

(2) For such certificate, a fee of \$1 and no more may be demanded or taken. R.S.O. 1950, c. 119, s. 19.

How far a party may discredit his own witness

24. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may contradict him by other evidence, or, if the witness in the opinion of the judge or other person presiding proves adverse, such party may, by leave of the judge or other person presiding, prove that the witness made at some other time a statement inconsistent with his present testimony, but before such last-mentioned proof is given the circumstances of the proposed statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make such statement. R.S.O. 1950, c. 119, s. 20.

Letters patent

25. Letters patent under the Great Seal of the United Kingdom, or of any other of Her Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which such letters patent were issued, and such exemplification has the like force and effect for all purposes as the letters patent thereby exemplified or enrolled, as well against Her Majesty as against all other persons whomsoever. R.S.O. 1950, c. 119, s. 21, *revised*.

26. Copies of statutes, official gazettes, ordinances, regulations, proclamations, journals, orders, appointments to office, notices thereof and other public documents purporting to be printed by or under the authority of the Parliament of the United Kingdom, or of the Imperial Government or by or under the authority of the government or of any legislative body of any dominion, commonwealth, state, province, colony, territory or possession within the Queen's dominions, shall be admitted in evidence to prove the contents thereof. R.S.O. 1950, c. 119, s. 22.

Copies of
statutes, etc.

27. *Prima facie* evidence of a proclamation, order, regulation or appointment to office made or issued,

Proclama-
tions, orders,
etc.

- (a) by the Governor General or the Governor General in Council, or other chief executive officer or administrator of the Government of Canada; or
- (b) by or under the authority of a minister or head of a department of the Government of Canada or of a provincial or territorial government in Canada; or
- (c) by a Lieutenant Governor or Lieutenant Governor in Council or other chief executive officer or administrator of Ontario or of any other province or territory in Canada,

may be given by the production of,

- (d) a copy of the *Canada Gazette* or of the official gazette for a province or territory purporting to contain a notice of such proclamation, order, regulation or appointment; or
- (e) a copy of such proclamation, order, regulation or appointment purporting to be printed by the Queen's Printer or by the government printer for the province or territory; or
- (f) a copy of or extract from such proclamation, order, regulation or appointment purporting to be certified to be a true copy by such minister or head of a department or by the clerk, or assistant or acting clerk of the executive council or by the head of a department of the Government of Canada or of a provincial or territorial government or by his deputy or acting deputy. R.S.O. 1950, c. 119, s. 23.

Orders
signed by
Secretary
of State or
Provincial
Secretary

28. An order in writing purporting to be signed by the Secretary of State of Canada and to be written by command of the Governor General shall be received in evidence as the order of the Governor General and an order in writing purporting to be signed by the Provincial Secretary and to be written by command of the Lieutenant Governor shall be received in evidence as the order of the Lieutenant Governor. R.S.O. 1950, c. 119, s. 24.

Notices in
Gazette

29. Copies of proclamations and of official and other documents, notices and advertisements printed in the *Canada Gazette*, or in *The Ontario Gazette*, or in the official gazette of any province or territory in Canada are *prima facie* evidence of the originals and of the contents thereof. R.S.O. 1950, c. 119, s. 25.

Public
or official
documents

30. Where the original record could be received in evidence, a copy of an official or public document in Ontario, purporting to be certified under the hand of the proper officer, or the person in whose custody such official or public document is placed, or of a document, by-law, rule, regulation or proceeding, or of an entry in a register or other book of a corporation, created by charter or statute in Ontario, purporting to be certified under the seal of the corporation and the hand of the presiding officer or secretary thereof, is receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R.S.O. 1950, c. 119, s. 26; 1952, c. 28, s. 1.

Privilege in
case of
official
documents

31. Where a document is in the official possession, custody or power of a member of the Executive Council, or of the head of a department of the public service of Ontario, if the deputy head or other officer of the department has the document in his personal possession, and is called as a witness, he is entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the department, to object to producing the document on the ground that it is privileged, and such objection may be taken by him in the same manner, and has the same effect, as if such member of the Executive Council or head of the department were personally present and made the objection. R.S.O. 1950, c. 119, s. 27.

Entries in
departmental
books

32. A copy of an entry in a book of account kept in a department of the Government of Canada or of Ontario shall be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of the department

that such book was, at the time of the making of the entry, one of the ordinary books kept in the department, that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of the department, and that such copy is a true copy thereof. R.S.O. 1950, c. 119, s. 28.

33.—(1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, a copy thereof or extract therefrom is admissible in evidence if it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original was entrusted. Copies of public books or documents

(2) Such officer shall furnish the certified copy or extract to any person applying for it at a reasonable time, upon his paying therefor a sum not exceeding 10 cents for every folio of 100 words. R.S.O. 1950, c. 119, s. 29. Copies to be delivered if required

34.—(1) In this section, “bank” means a bank to which the *Bank Act* (Canada) applies or the Province of Ontario Savings Office, and includes a branch, agency or office of any them. R.S.O. 1950, c. 119, s. 30 (1), *amended*. Interpretation 1953-54, c. 48 (Can.).

(2) Subject to this section, a copy of an entry in a book or record kept in a bank is in any action to which the bank is not a party *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded. Copies of entries in books as prima facie evidence

(3) A copy of an entry in such book or record shall not be received in evidence under this section unless it is first proved that the book or record was at the time of making the entry one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of business, that the book of record is in the custody or control of the bank, or its successor, and that such copy is a true copy thereof, and such proof may be given by the manager or accountant, or a former manager of the bank or its successor, and may be given orally or by affidavit. Proof required as to entry in ordinary course of business

(4) A bank or officer of a bank is not, in an action to which the bank is not a party, compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or a judge made for special cause. Production of books to be required only under order

Inspection
of account

(5) On the application of a party to an action, the court or judge may order that such party be at liberty to inspect and take copies of any entries in the books or records of a bank for the purposes of such proceeding, but a person whose account is to be inspected shall be served with notice of the application at least two clear days before the hearing thereof, and, if it is shown to the satisfaction of the court or judge that such person cannot be notified personally, such notice may be given by addressing it to the bank.

Costs

(6) The costs of an application to a court or judge under or for the purposes of this section, and the costs of any thing done or to be done under an order of a court or judge made under or for the purposes of this section, are in the discretion of the court or judge who may order such costs or any part thereof to be paid to a party by the bank, where such costs have been occasioned by a default or delay on the part of the bank, and any such order against a bank may be enforced as if the bank were a party to the proceeding. R.S.O. 1950, c. 119, s. 30 (2-6).

Interpre-
tation

35.—(1) In this section,

(a) “person” includes,

- (i) the government of Canada and of a province of Canada, and a department, commission, board or branch of any such government,
- (ii) a corporation, its successors and assigns, and
- (iii) the heirs, executors, administrators or other legal representatives of a person;

(b) “photographic film” includes any photographic plate, microphotographic film and photostatic negative, and “photograph” has a corresponding meaning.

Admissible
in evidence

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by a person,

(a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and

(b) is destroyed by or in the presence of such person or of one or more of his employees or delivered to

another person in the ordinary course of business or lost,

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was so destroyed before the expiration of six years from, Court may refuse to admit in evidence

- (a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object; or
- (b) the date of receipt by the person having custody or control of the object of notice in writing of a claim in respect of the object or matter prior to the destruction of the object,

whichever is the later date, the court may refuse to admit in evidence under this section a print from a photographic film of the object.

(4) Where the photographic print is tendered by a government or the Bank of Canada, subsection 3 does not apply. Exception

(5) Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public, and, unless the court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit. Proof of compliance with conditions R.S.O. 1950, c. 119, s. 31.

36.—(1) All courts, judges, justices, masters, clerks of courts, commissioners and other officers acting judicially, shall take judicial notice of the signature of any judge of any court in Canada, in Ontario and in every other province and territory in Canada, where his signature is appended or attached to a decree, order, certificate, affidavit, or judicial or official document. Judicial notice to be taken of signatures of judges, etc. R.S.O. 1950, c. 119, s. 32 (1).

(2) The members of the Board of Transport Commissioners of Canada and of the Ontario Municipal Board, the Mining Commissioner under *The Mining Act* and a referee appointed under *The Municipal Drainage Act* shall be deemed judges for the purposes of this section. Interpretation R.S.O. 1960, cc. 241, 252 R.S.O. 1950, c. 119, s. 32 (2), *amended.*

Proof of
handwriting,
when not
required

37. No proof is required of the handwriting or official position of a person certifying to the truth of a copy of or extract from any proclamation, order, regulation or appointment, or to any matter or thing as to which he is by law authorized or required to certify. R.S.O. 1950, c. 119, s. 33.

Foreign
judgments,
etc., how
proved

38. A judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature or in any court of record in England or Ireland or in any of the superior courts of law, equity or bankruptcy in Scotland, or in any court of record in Canada, or in any of the provinces or territories in Canada, or in any British colony or possession, or in any court of record of the United States of America, or of any state of the United States of America, may be proved by an exemplification of the same under the seal of the court without any proof of the authenticity of such seal or other proof whatever, in the same manner as a judgment, decree or other judicial proceeding of the Supreme Court in Ontario may be proved by an exemplification thereof. R.S.O. 1950, c. 119, s. 34.

Copies of
notarial acts
in Quebec
admissible

39.—(1) A copy of a notarial act or instrument in writing made in Quebec before a notary and filed, enrolled or enregistered by such notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or prothonotary, is receivable in evidence in the place and stead of the original, and has the same force and effect as the original would have if produced and proved. R.S.O. 1950, c. 119, s. 35.

How
impeached

(2) The proof of such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary. R.S.O. 1950, c. 119, s. 36.

Protests
of bills
and notes

40. A protest of a bill of exchange or promissory note purporting to be under the hand of a notary public wherever made is *prima facie* evidence of the allegations and facts therein stated. R.S.O. 1950, c. 119, s. 37.

Effect of
certain
certificates
of notaries

41. Any note, memorandum or certificate purporting to be made by a notary public in Canada, in his own handwriting or to be signed by him at the foot of or embodied in any protest, or in a regular register of official acts purporting to be kept by him is *prima facie* evidence of the fact of notice of non-acceptance or non-payment of a bill of exchange or

promissory note having been sent or delivered at the time and in the manner stated in such note, certificate or memorandum. R.S.O. 1950, c. 119, s. 38.

42. In proving a title under a sheriff's conveyance based upon an execution issued from a division court, it is sufficient to prove the judgment recovered in the division court without proof of any prior proceedings. R.S.O. 1950, c. 119, s. 39.

43.—(1) Any person authorized to take declarations in Ontario may receive the solemn declaration of any person in attestation of the truth of any fact or of any account rendered in writing and, subject to subsection 2, the declaration and any declaration authorized or required by any Act of the Legislature shall be in the following form:

I, _____, solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Declared before me
at the of ,
this day of , 19 .

A Commissioner, etc.

(2) A declaration made in the form prescribed by section Idem
37 of the *Canada Evidence Act* shall be deemed to have been R.S.C. 1952,
made in compliance with subsection 1. 1960, c. 31, s. 5. c. 307

44.—(1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made in or outside Ontario before a person who holds a commission as an officer in the Canadian Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.

(2) A document that purports to be signed by a person ^{Admissibility} mentioned in subsection 1 in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him and on which his rank and unit are shown below his signature is admissible in evidence without proof of his signature or of his rank or unit or that he is on full-time service. 1954, c. 27, s. 1, *part.*

45.—(1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before, ^{Oaths, etc., administered outside Ontario}

(a) a judge;

- (b) a magistrate;
- (c) an officer of a court of justice;
- (d) a commissioner for taking affidavits or other competent authority of the like nature;
- (e) a notary public;
- (f) the head of a city, town, village, township or other municipality;
- (g) an officer of any of Her Majesty's diplomatic or consular services, including an ambassador, envoy, minister, charge d'affairs, counsellor, secretary, attache, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;
- (h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in clause g, a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretry; or
- (i) a Canadian Government trade commissioner or assistant trade commissioner,

exercising his functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.

Idem

(2) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before a notary public for Ontario or before a commissioner for taking affidavits in Ontario is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.

Admissibility

(3) A document that purports to be signed by a person mentioned in subsection 1 or 2 in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him, and on which his office is shown below his signature, and

- (a) in the case of a notary public, that purports to have impressed thereon or attached thereto his official seal;

- (b) in the case of a person mentioned in clause *f* of subsection 1, that purports to have impressed thereon or attached thereto the seal of the municipality;
- (c) in the case of a person mentioned in clause *g*, *h* or *i* of subsection 1, that purports to have impressed thereon or attached thereto his seal or the seal or stamp of his office or of the office to which he is attached,

is admissible in evidence without proof of his signature or of his office or official character or of the seal or stamp and without proof that he was exercising his functions or had jurisdiction or authority in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made. 1954, c. 27, s. 1, *part*.

46. No informality in the heading or other formal requisites to any affidavit, declaration or affirmation made or taken before a commissioner or other person authorized to take affidavits under *The Commissioners for taking Affidavits Act*, or under this Act, is any objection to its reception in evidence if the court or judge before whom it is tendered thinks proper to receive it. R.S.O. 1950, c. 119, s. 42.

Formal defects, when not to vitiate
R.S.O. 1960, c. 69

47. Where an examination or deposition of a party or witness has been taken before a judge or other officer or person appointed to take it, copies of it, certified under the hand of the judge, officer or other person taking it, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. R.S.O. 1950, c. 119, s. 43.

Admissibility of copies of depositions

48. In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed containing such devise or disposition, or a copy thereof, under the seal of the surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada, are *prima facie* evidence of the will and of its validity and contents. R.S.O. 1950, c. 119, s. 44.

Effect of probate, etc., as evidence of will, etc.

49.—(1) Where a person dies in any of Her Majesty's possessions outside Ontario having made a will sufficient to pass real estate in Ontario, purporting to devise, charge or affect real estate in Ontario, the party desiring to establish any such disposition, after giving one month's notice to the opposite party to the proceeding of his intention so to do, may produce and file the probate of the will or letters of administration with the will annexed or a certified copy thereof under the

Proof in the case of will of real estate filed in courts outside Ontario

seal of the court that granted the same with a certificate of the judge, registrar or clerk of such court that the original will is filed and remains in the court and purports to have been executed before two witnesses, and such probate or letters of administration or certified copy with such certificate is, unless the court otherwise orders, *prima facie* evidence of the will and of its validity and contents. R.S.O. 1950, c. 119, s. 45.

Effect of
certificate

(2) The production of the certificate mentioned in subsection 1 is sufficient *prima facie* evidence of the facts therein stated and of the authority of the judge, registrar or clerk, without proof of his appointment, authority or signature. R.S.O. 1950, c. 119, s. 46.

Military
records
R.S.O. 1952,
c. 184

50. The production of a certificate, purporting to be signed by an authority authorized in that behalf by the *National Defence Act* or by regulations made thereunder, stating that the person named in the certificate died, or was deemed to have died, on a date set forth therein, is *prima facie* proof for any purpose to which the authority of the Legislature extends that the person so named died on that date, and also of the office, authority and signature of the person signing the certificate, without any proof of his appointment, authority or signature. 1960, c. 31, s. 6.

Interpre-
tation
R.S.O. 1960,
c. 348

51.—(1) In this section, “instrument” has the meaning assigned to it in section 1 of *The Registry Act*. R.S.O. 1950, c. 119, s. 48.

Registered
instrument
as evidence

(2) A copy of an instrument or memorial, certified under the hand and seal of office of the registrar, master of titles or local master of titles, in whose office it is deposited, filed, kept or registered, to be a true copy, is *prima facie* evidence of the original, except in the cases provided for in subsection 3. R.S.O. 1950, c. 119, s. 49.

Where cer-
tified copies
of registered
instruments
may be used

(3) Where it would be necessary to produce and prove an instrument or memorial that has been so deposited, filed, kept or registered in order to establish such instrument or memorial and the contents thereof, the party intending to prove it may give notice to the opposite party, at least ten days before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the instrument or memorial, a copy thereof certified by the registrar, master of titles or local master of titles, under his hand and seal of office, and in every such case the copy so certified is sufficient

evidence of the instrument or memorial and of its validity and contents unless the party receiving the notice, within four days after such receipt, gives notice that he disputes its validity, in which case the costs of producing and proving it may be ordered to be paid by any or either of the parties as is deemed just. R.S.O. 1950, c. 119, s. 50.

52.—(1) Where a public officer produces upon a subpoena an original document, it shall not be deposited in court unless otherwise ordered, but, if the document or a copy is needed for subsequent reference or use, a copy thereof or of so much thereof as is deemed necessary, certified under the hand of the officer producing the document or otherwise proved, shall be filed as an exhibit in the place of the original, and the officer is entitled to receive in addition to his ordinary fees the fees for any certified copy, to be paid to him before it is delivered or filed. Filing copies of official documents

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer and the exhibit shall be retained in court and filed. When original to be retained R.S.O. 1950, c. 119, s. 51.

53.—(1) A party intending to prove the original of a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends to give in evidence as proof of the contents a writing purporting to be a copy of the documents, and in the notice shall name some convenient time and place for the inspection thereof. Proof of certain written instruments

(2) Such copy may then be inspected by the opposite party, and is without further proof sufficient evidence of the contents of the original document, and shall be accepted and taken in lieu of the original, unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original, and the costs attending any production or proof of the original document are in the discretion of the court. R.S.O. 1950, c. 119, s. 52. Inspection

54. It is not necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite. Where no attestation required R.S.O. 1950, c. 119, s. 53.

Comparison
of disputed
writing
with
genuine

55. Comparison of a disputed writing with a writing proved to the satisfaction of the court to be genuine shall be permitted to be made by a witness, and such writings and the evidence of witnesses respecting them may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute. R.S.O. 1950, c. 119, s. 54.

Where
instruments
offered
in evidence
may be
impounded

56. Where a document is received in evidence, the court admitting it may direct that it be impounded and kept in such custody for such period and subject to such conditions as seem proper, or until the further order of the court or of the Supreme Court or of a judge thereof or of a county or district court, as the case may be. R.S.O. 1950, c. 119, s. 55.

Evidence
dispensed
with under
R.S.O. 1960,
c. 414

57. It is not necessary in an action to produce any evidence that, by section 1 of *The Vendors and Purchasers Act*, is dispensed with as between vendor and purchaser, and the evidence declared to be sufficient as between vendor and purchaser is *prima facie* sufficient for the purposes of the action. R.S.O. 1950, c. 119, s. 56.

Evidence
for foreign
tribunals

58.—(1) Where it is made to appear to the Supreme Court or a judge thereof, or to a judge of a county or district court, that a court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining of the testimony in or in relation to an action, suit or proceeding pending in or before such foreign court or tribunal, of a witness out of the jurisdiction thereof and within the jurisdiction of the court or judge so applied to, such court or judge may order the examination of such witness before the person appointed, and in the manner and form directed by the commission, order or other process, and may, by the same or by a subsequent order, command the attendance of a person named therein for the purpose of being examined, or the production of a writing or other document or thing mentioned in the order, and may give all such directions as to the time and place of the examination, and all other matters connected therewith as seem proper, and the order may be enforced, and any disobedience thereto punished, in like manner as in the case of an order made by the same court or judge in an action pending in such court or before such judge.

Payment of
expenses of
witness

(2) A person whose attendance is so ordered is entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court.

(3) A person examined under such commission, order or process has the like right to object to answer questions tending to criminate himself, and to refuse to answer any questions that, in an action pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made, the witness would be entitled to object or to refuse to answer, and no person shall be compelled to produce at the examination any writing, document or thing that he could not be compelled to produce at the trial of such an action. Right of refusal to answer questions and to produce documents

(4) Where the commission, order or other process, or the instructions of the court accompanying the same, direct that the person to be examined shall be sworn or shall affirm, the person so appointed has authority to administer the oath to him or take his affirmation. R.S.O. 1950, c. 119, s. 57. Administration of oath

CHAPTER 126

The Execution Act

1. In this Act,

Interpre-
tation

- (a) “execution” includes a writ of *fiери facias* and every subsequent writ for giving effect thereto;
- (b) “sheriff” includes an officer to whom an execution is directed. R.S.O. 1950, c. 120, s. 1.

2. The following chattels are exempt from seizure under any writ issued out of any court:

Chattels
exempt
from
seizure

1. The household furniture, utensils and equipment that are contained in and form part of the permanent home of the debtor, provided that this paragraph does not apply to furniture, utensils or equipment purchased for defeating the claims of creditors, and provided further that, in the case of a writ issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family, the exemption under this paragraph is limited to household furniture, utensils and equipment not exceeding \$1,000 in value.
2. The necessary and ordinary wearing apparel of the debtor and his family.
3. In the case of a debtor other than a person engaged in the tillage of the soil or farming, such food as the debtor actually has in his possession for the purposes of consumption by himself and his family, and in the case of a person engaged solely in the tillage of the soil or farming, such food as is necessary for consumption by himself and his family until the next harvest whether such food is in a consumable state or requires to be milled, slaughtered or otherwise processed.
4. Such fuel as is in the debtor's home.

5. In the case of a debtor other than a person engaged in the tillage of the soil or farming, live stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling, to the extent of \$1,000.
6. In the case of a person engaged solely in the tillage of the soil or farming, live stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling, to the extent of \$3,000.
7. In the case of a person engaged solely in the tillage of the soil or farming, sufficient seed to seed all his land under cultivation, not exceeding 100 acres, as selected by the debtor, and fourteen bushels of potatoes, and where seizure is made between the 1st day of October and the 30th day of April, such food and bedding as is necessary to feed and bed the live stock and fowl that are exempt under this section until the 30th day of April next following. R.S.O. 1950, c. 120, s. 2; 1957, c. 31, s. 1 (2); 1959, c. 32, s. 1.

Right of debtor to part of proceeds of sale of implements

3. The debtor may, in lieu of the chattels referred to in paragraph 6 of section 2, elect to receive the proceeds of the sale thereof up to \$3,000, in which case the officer executing the writ shall pay the net proceeds of the sale if they do not exceed \$3,000 or, if they exceed \$3,000, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under that paragraph. 1957, c. 31, s. 2; 1959, c. 32, s. 2.

Money derived from sale of exempted goods

4. The sum to which a debtor is entitled under paragraph 5 or 6 of section 2 or under section 3 is exempt from attachment or seizure at the instance of a creditor. R.S.O. 1950, c. 120, s. 4; 1957, c. 31, s. 3.

Disposal of exempted goods after death of the debtor

5. Chattels exempt from seizure are, after the death of the debtor, exempt from the claims of his creditors, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them. R.S.O. 1950, c. 120, s. 5.

Right of selection

6. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure. R.S.O. 1950, c. 120, s. 6.

7. Nothing in this Act exempts any article including fuel, ^{Beds and wearing apparel exempt} except beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family and the necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article. R.S.O. 1950, c. 120, s. 7.

8. The sheriff to whom a writ of execution against lands is delivered for execution may seize and sell thereunder the ^{Sheriff may sell any lands of execution debtor} lands of the execution debtor, including any lands whereof any other person is seized or possessed in trust for the execution debtor and including any interest of the execution debtor in lands held in joint tenancy. R.S.O. 1950, c. 120, s. 8; 1957, c. 31, s. 4.

9.—(1) Subject to *The Land Titles Act*, a writ of execution ^{Writs against lands and goods} binds the goods and lands against which it is issued from the time of the delivery thereof to the sheriff for execution, but ^{R.S.O. 1960, c. 204} save as to bills of sale and chattel mortgages, no writ of execution against goods prejudices the title to such goods acquired by a person in good faith and for valuable consideration unless such person had, at the time when he acquired his title, notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in his hands unexecuted.

(2) The sheriff shall, upon the receipt of the writ and ^{Endorsement} without fee, endorse thereon the day of the year, the month, the hour and the minute when it was received.

(3) Subsection 1 does not apply to an execution against ^{Execution issued out of division court} goods issued out of a division court, which binds only from the time of the seizure. R.S.O. 1950, c. 120, s. 9.

10. Subject to *The Judicature Act* and the rules of court, ^{Liability of land to execution} land and other hereditaments and real estate belonging to any person indebted are liable to and chargeable with all just debts, duties and demands of whatsoever nature or kind owing by any such person to Her Majesty or to any of her subjects and are assets for the satisfaction thereof and are subject to the like remedies, proceedings and process for seizing, selling or disposing of them towards the satisfaction of such debts, duties and demands, and in like manner as personal estate is seized, sold or disposed of. R.S.O. 1950, c. 120, s. 10.

Seizure of
shares and
dividends
under
execution

11.—(1) Shares and dividends and any equitable or other right, property, interest or equity of redemption in or in respect of shares or dividends in a chartered bank or a corporation having transferable shares shall be deemed to be personal property found in the place where notice of the seizure thereof is served, and may be seized under execution and sold thereunder in like manner as other personal property. R.S.O. 1950, c. 120, s. 11.

Notice of
seizure

(2) The sheriff on being informed on behalf of the execution creditor that the execution debtor has such shares, and on being required to seize them, shall forthwith serve a copy of the execution on the bank or corporation with a notice that all the shares of the execution debtor are seized thereunder, and from the time of service the seizure shall be deemed to be made and no transfer of the shares by the execution debtor is valid unless and until the seizure has been discharged, and every seizure and sale made under the execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized, and they shall not, after notice as aforesaid, be paid by the bank or corporation to anyone except the person to whom the shares have been sold.

How
seizure
made

(3) Such seizure may be made and notice given by the sheriff where the bank or corporation has within his bailiwick a place at which service of process may be made, or where a share register is kept. R.S.O. 1950, c. 120, s. 12.

Provisions
for the case
of more
than one
place of
service

(4) If the bank or corporation has more than one place where service of process may be made, and there is some place where transfers of shares may be notified to and entered by the bank or corporation, so as to be valid as regards the bank or corporation, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice does not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the bank or corporation to pay twice, or so as to affect the rights of a *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it is the duty of the bank or corporation to so transmit. R.S.O. 1950, c. 120, s. 13.

Mode of
proceeding
after sale

(5) Where any such share is sold, the sheriff shall within ten days after the sale serve upon the bank or corporation at a place where service of process may be made a copy of the execution with his certificate endorsed thereon certifying the sale and the name of the purchaser who shall have the same

rights and be under the same obligations as if he had purchased the share from the execution debtor at the time of the service of notice under subsection 2. R.S.O. 1950, c. 120, s. 14.

(6) Nothing in this Act affects any remedy that the execution creditor might, without this Act, have had against any such share or the dividends, premiums, bonuses or other pecuniary profits in respect thereof, and subsections 1 to 4 apply to such remedy in so far as they can be applied thereto. R.S.O. 1950, c. 120, s. 15 (1). Saving of all other remedies

12. If a sheriff seizes the shares of an execution debtor in a private company, he shall first offer them for sale to the other shareholders or any one of them in such private company, and if none of them will purchase the shares for a reasonable price, the sheriff may then offer the debtor's interest therein for sale to the public generally and sell and convey to the highest bidder. R.S.O. 1950, c. 120, s. 15 (2). Seizure and sale of shares in private company

13. The procedure for seizure and sale in the case of an equitable or other right, property, interest or equity of redemption in or in respect of a share shall be the same as hereinbefore provided in the case of shares and dividends, and the same shall be held to be personal property found in the place where notice of the seizure is served. R.S.O. 1950, c. 120, s. 16. Procedure for sale of equitable interests

14.—(1) All rights under letters patent of invention and any equitable or other right, property, interest or equity of redemption therein shall be deemed to be personal property and may be seized and sold under execution in like manner as other personal property. Rights under patent of invention

(2) Such seizure and sale may be made by the sheriff of any county or district having in his hands to be executed an execution against the property of the debtor who is the owner of or interested in the letters patent. How seizable

(3) Notice of the seizure shall forthwith be sent to the Patent Office, Ottawa, and the interest of the debtor shall be bound from the time when the notice is received there. R.S.O. 1950, c. 120, s. 17. Notice of seizure

15. The sheriff may seize and sell any equitable or other right, property, interest or equity of redemption in or in respect of any goods, chattels or personal property, including leasehold interests in any land of the execution debtor, and, except where the sale is under an execution against goods issued out of a division court, the sale conveys whatever equitable or other right, property, interest or equity of Seizure and sale of rights in chattels, etc.

redemption he had or was entitled to in or in respect of the goods, chattels or personal property at the time of the delivery of the execution to the sheriff for execution, and, where the sale is under an execution against goods issued out of a division court, the sale conveys whatever equitable or other right, property, interest or equity of redemption the debtor had or was entitled to in or in respect of the goods, chattels or personal property at the time of the seizure. R.S.O. 1950, c. 120, s. 18.

Money and
securities
for money

R.S.O. 1960,
c. 78

16.—(1) The sheriff shall seize any money or bank-notes, including any surplus of a former execution against the debtor, and any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the person against whom the execution has been issued, and, subject to *The Creditors' Relief Act*, shall pay or deliver to the party who sued out the execution the money or bank-notes so seized, or a sufficient part thereof, and hold such cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money as security for the amount directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff may sue in his own name for the recovery of the sums secured thereby.

Book debts
and choses
in action

(2) The sheriff may seize any book debts and other choses in action of the execution debtor and may sue in his own name for the recovery of the moneys payable in respect thereof.

Sale by
sheriff

(3) If it appears to the sheriff that an attempt to collect the book debts, choses in action or the securities for the money referred to in subsections 1 and 2 would be less beneficial to the creditors than a sale thereof, the sheriff may proceed to sell such book debts, choses in action and securities by public auction in the same manner as the debtor's goods may be sold when taken in execution. R.S.O. 1950, c. 120, s. 19.

Effect of
payment
to sheriff

(4) The payment to the sheriff by the person liable on such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security, with or without suit, or recovery from him, discharges him to the extent of such payment or recovery from his liability thereon. R.S.O. 1950, c. 120, s. 20.

Payment of
proceeds

(5) Subject to *The Creditors' Relief Act*, the sheriff shall pay over to the party who sued out the execution the money so paid or recovered, or a sufficient sum to discharge the

amount directed to be levied, and if, after satisfaction thereof and of the fees, poundage and expenses of the sheriff, a surplus remains, it shall be paid to the party against whom the execution issued. R.S.O. 1950, c. 120, s. 21.

(6) A sheriff is not bound to sue any person liable upon such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff against all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof, and the expenses of the bond, not exceeding \$5, may be deducted from any money recovered in the action. R.S.O. 1950, c. 120, s. 22. ^{Indemnity of sheriff}

17.—(1) A sheriff is not, without written instructions and a bond as hereinafter mentioned, obliged to seize property in the possession of a third person claiming it and not in the possession of the debtor against whose property the execution was issued. ^{When sheriff obliged to seize goods claimed by third parties}

(2) The instructions shall specify the property in such a way as to enable the sheriff to identify it. ^{Instructions}

(3) The bond shall be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties who shall justify in double the value of the property, and the value shall be stated in an affidavit by the creditor or his solicitor or agent attached to the bond. ^{Bond}

(4) The bond shall be assignable to the claimant, and shall be conditioned that the persons executing it shall be liable for the damages, costs and expenses that the sheriff or the claimant may be put to by the seizure and subsequent proceedings, including interpleader proceedings, if any, and which he does not recover from other persons who ought to pay them. ^{Conditions of bond}

(5) If the sheriff is not satisfied with the bond offered, the matter in difference shall be determined by a judge of the county or district court of the county or district. ^{Settlement by judge}

(6) Nothing in this section limits the right of the sheriff to apply for relief by interpleader. R.S.O. 1950, c. 120, s. 23. ^{Right of sheriff to interpleader}

18.—(1) If a sheriff is informed on behalf of the execution creditor that the execution debtor is a mortgagee of land and that the mortgage is registered, or that he is entitled to ^{Taking money secured by mortgage under execution}

receive a sum of money charged upon land by virtue of a registered instrument, and, if the sheriff is required on behalf of the execution creditor to seize the mortgage or charge and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the registrar or master of titles in whose office the mortgage or other instrument is registered, who shall forthwith register it, a notice in the form or to the effect following:

Form of
sheriff's
notice to
registrar

To the Registrar of (*or as the case may be*)

By virtue of an execution issued out of the Supreme Court of Ontario (*or as the case may be*) whereby I am commanded to levy of the goods and chattels of *A. B.* \$..... for debt, and \$..... for costs lately adjudged to be paid by *A.B.* to *C.D.*, besides the costs of execution, I have this day seized and taken in execution all the estate, right, title and interest of *A.B.* in a mortgage made by *X.Y.* to *A.B.*, bearing date the day of, 19....., and registered in the registry office for the County of (*or as the case may be*) on the day of, 19....., as number (*or the said mortgage or other instrument may be described in any other manner by reference to dates, parties and the land covered as will enable the notice to be registered against the land therein described*) and in the money secured thereby, and this notice is given for the purpose of binding the interest of *A.B.* under sections 18 to 22 of *The Execution Act*.

Dated this day of, 19.....

(Signed)
Sheriff of the County (*or District*) of.....

Effect of
registration
of sheriff's
notice to
registrar

(2) Upon registration of the notice, the interest of the execution debtor in the mortgage or other instrument and in the land therein described and in the money thereby secured and in all covenants and stipulations for securing payment thereof is bound by the execution, and such registration is notice of the execution and seizure to all persons who may thereafter in any way acquire an interest in the mortgage, land, money or covenants, and the rights of the sheriff and of the execution creditor have priority over the rights of all such persons subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to section 19. R.S.O. 1950, c. 120, s. 24.

Notice to
mortgagor

19.—(1) A notice similar to that mentioned in section 18 shall also be served upon the mortgagor or the person who is liable to pay the money secured by the registered instrument, and after such service the person served shall pay to the sheriff all money then payable and, as it becomes due, all money that may become payable to the execution debtor so far as may be necessary to satisfy the execution.

(2) Service of the notice may be made personally, or by leaving it at the dwelling-house of the person to be served with a grown-up person residing there, or by registered mail to the proper address of the person to be served. Mode of effecting service

(3) Any payment made after service of the notice or after actual knowledge of the seizure is void as against the sheriff and the execution creditor. R.S.O. 1950, c. 120, s. 25. Payments made after notice

20. In addition to the remedies provided in this Act, the sheriff may bring an action on any mortgage or other instrument seized under this Act for the sale or foreclosure of the land covered by it, and is entitled to a bond of indemnity as in the cases provided for in subsection 6 of section 16. R.S.O. 1950, c. 120, s. 26. Sheriff enforcing mortgage

21.—(1) Upon an execution, notice whereof is registered under section 18, expiring or being satisfied, set aside or withdrawn, a certificate of such fact shall be given by the sheriff or by the execution creditor, and it or the order to set aside, as the case may be, may be registered, and thereupon the seizure is vacated and at an end. When seizure may be vacated

(2) The order or the certificate of the sheriff does not require verification. Verification of order and certificates

(3) The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting land. R.S.O. 1950, c. 120, s. 27. Idem

22. For the registration of a notice under section 18, the registrar or master is entitled to a fee of 50 cents, and for the registration of a certificate under section 21, to the fee provided by *The Registry Act*, and for every notice of seizure under section 18, the sheriff is entitled to a fee of \$1, and for every certificate under section 21 to a fee of 75 cents. R.S.O. 1950, c. 120, s. 28. Fees of registrar and sheriff
R.S.O. 1960, c. 348

23. Where an execution debtor is a mortgagee of chattels and the mortgage is registered as required by law, sections 18 to 22 are applicable, except that the notice to be given by the sheriff shall be delivered or transmitted to the clerk of the county or district court or other officer in whose office the chattel mortgage is registered. R.S.O. 1950, c. 120, s. 29. Taking chattel mortgage in execution

24.—(1) Where the word “mortgagor” occurs in this section, it shall be read and construed as if the words “his heirs, executors, administrators or assigns, or person having the equity of redemption” were inserted immediately after the word “mortgagor”. R.S.O. 1950, c. 120, s. 30. Interpretation

Interest
of a
mortgagor

(2) The sheriff to whom an execution against the lands and tenements of a mortgagor is directed may seize, sell and convey all the interest of the mortgagor in any mortgaged lands and tenements.

Equity of
redemption

(3) The equity of redemption in freehold land is saleable under an execution against the lands and tenements of the owner of the equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as land and tenements may now be sold under an execution.

Selling lands
subject to
more than
one mort-
gage in
execution

(4) Where more mortgages than one of the same lands have been made to the same mortgagee or to different mortgagees, subsections 2 and 3 apply, and the equity of redemption is saleable under an execution against the lands and tenements of the owner, subject to the mortgages, in the same manner as in the case of land subject to one mortgage only. R.S.O. 1950, c. 120, s. 31.

Effect of
sale

(5) The effect of the seizure or taking in execution, sale and conveyance of mortgaged lands and tenements is to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the execution was placed in the hands of the sheriff, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place, and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien that at the time of the sale existed upon the lands or tenements so sold in like manner as the mortgagor might have done, and thereupon the purchaser, his heirs and assigns, acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor. R.S.O. 1950, c. 120, s. 32.

Effect of
purchase by
mortgagee or
execution
creditor

(6) A mortgagee of land, or the executors, administrators or assigns of a mortgagee, being or not being the execution creditor, may be the purchaser at the sale and acquire the same estate, interest and rights thereby as any other purchaser, but in that event he or they shall give to the mortgagor a release of the mortgage debt, and if another person becomes the purchaser, and, if the mortgagee, his executors, administrators or assigns enforce payment of the mortgage debt by the mortgagor, the purchaser shall repay the debt and interest to the mortgagor, and, in default of payment thereof within one month after demand, the mortgagor may recover the debt and interest from the purchaser, and has a charge therefor upon the mortgaged land. R.S.O. 1950, c. 120, s. 33.

25.—(1) Any estate, right, title or interest in land which, ^{Contingent interests liable to execution R.S.O. 1960, c. 66} under section 10 of *The Conveyancing and Law of Property Act*, may be conveyed or assigned by any person, or over which he has any disposing power that he may, without the assent of any other person, exercise for his own benefit, is liable to seizure and sale under execution against such person in like manner and on like conditions as land is by law liable to seizure and sale under execution, and the sheriff selling it may convey and assign it to the purchaser in the same manner and with the same effect as the person might himself have done.

(2) An inchoate right to dower is not liable to seizure ^{Except inchoate right to dower} or sale under execution.

(3) Property over which a deceased person had a general ^{Property subject to power of appointment} power of appointment exercisable for his own benefit without the assent of any other person where it is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after the property of the deceased has been exhausted. R.S.O. 1950, c. 120, s. 34.

26.—(1) The interest of a person derived by deed, lease ^{Interest in pew or sitting} or licence in writing from the churchwardens or other authorities of any church in a pew or sitting, if the interest is assignable by the holder thereof, may be sold under execution at the suit of the churchwardens or other authorities for arrears of rent or other charges to which the pew or sitting is subject, or which the holder thereof may have agreed to pay or for which he may be liable, or at the suit of any creditor of such holder, and the churchwardens or other authorities may become purchasers at such sale on behalf of the church, and may re-let or sell the right so acquired.

(2) The sheriff may execute a deed to the purchaser of ^{Deed} the interest so sold, and the churchwardens or other authorities shall, on production of the deed, give effect to it upon payment of any arrears of rent or charge then due.

(3) Such sale is subject to any continuing rent or charge ^{Saving} of such pew or sitting previously stipulated for or imposed, and does not prejudice the right to impose increased rent or charges on such pew or sitting pursuant to any law or custom. R.S.O. 1950, c. 120, s. 35, *amended*.

27. The title and interest of a testator or intestate in land ^{How execution enforceable against executor, etc.} may be seized and sold under an execution upon a judgment recovered by a creditor of the testator or intestate against

his executor or administrator in the same manner and under the same process as upon a judgment against the deceased if he were living. R.S.O. 1950, c. 120, s. 36.

Executions
against
municipal
corporations

28.—(1) An execution against a municipal corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following:

Statement
of claim to
treasurer

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the municipal corporation, or leave such copy at the office or dwelling-place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.

When sheriff
to strike
rate

2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition as the sheriff deems sufficient to cover the interest up to the time when the rate will probably be available, and his own fees and poundage.

Sheriff's
precept to
collector,
etc., to levy
rate

3. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the corporation, and shall annex to the precept the roll of such rate, and shall, by the precept after reciting the writ and that the corporation has neglected to satisfy it and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates.

Rate rolls

4. If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto headed "Execution rate in A.B. *vs.* The Township of", adding a similar column for each execution if more than one, and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such

execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.

5. The sheriff shall, after satisfying the execution and ^{Surplus} all the fees and poundage thereon, pay any surplus, within ten days after receiving it, to the treasurer of the municipal corporation.

(2) The clerk, assessor and collector of the corporation ^{Functions of clerk, assessors and collectors} shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1950, c. 120, s. 37.

CHAPTER 127

The Executive Council Act

1. The Executive Council shall be composed of such persons as the Lieutenant Governor from time to time appoints, and all executive councillors so appointed are ministers of the Crown, and rank among themselves in the order of their appointments. R.S.O. 1950, c. 121, s. 1.

Executive
Council,
how
composed

2. The Lieutenant Governor may appoint under the Great Seal from among the ministers of the Crown the following ministers to hold office during pleasure: a President of the Council, an Attorney General, a Secretary and Registrar, a Treasurer, a Minister of Lands and Forests, a Minister of Mines, a Minister of Agriculture, a Minister of Public Works, a Minister of Highways, a Minister of Education, a Minister of Labour, a Minister of Health, a Minister of Public Welfare, a Minister of Municipal Affairs, a Minister of Planning and Development, a Minister of Travel and Publicity, a Minister of Reform Institutions, a Minister of Transport, a Minister of Energy Resources, and such other ministers as he sees fit, and may by order in council prescribe their duties and the duties of the several departments over which they preside, and of the officers and clerks thereof. R.S.O. 1950, c. 121, s. 2, *amended*.

Heads of
depart-
ments

3.—(1) The annual salary of every minister having charge of a department is \$12,000. R.S.O. 1950, c. 121, s. 3 (1); 1960, c. 32, s. 1 (1).

Salaries

(2) The member of the Executive Council holding the recognized position of First Minister shall receive, in addition, \$4,000 per annum. R.S.O. 1950, c. 121, s. 3 (2).

Additional
salary
for First
Minister

(3) The annual salary of every minister without portfolio other than the minister without portfolio who is a member of The Hydro-Electric Power Commission of Ontario, is \$2,500. 1959, c. 33, s. 1; 1960, c. 32, s. 1 (2).

Salary of
minister
without
portfolio

(4) The salaries are chargeable upon and payable yearly and *pro rata* for any period less than a year out of the Consolidated Revenue Fund. R.S.O. 1950, c. 121, s. 3 (3).

How
payable

Transfer of
duties from
one member
of Council
to another
R.S.O. 1960,
c. 208

4.—(1) Notwithstanding *The Legislative Assembly Act*, any of the powers and duties that have been heretofore or may be hereafter assigned by law to any minister of the Crown may from time to time by order in council be assigned and transferred either for a limited period or otherwise to any other minister by name or otherwise.

Minister
acting upon
request

(2) On request made to him by the minister to whom any duties and powers have been assigned as provided in subsection 1, any other minister may for a period not exceeding one week perform such duties and exercise such powers in place of the minister making the request, and in such case no order in council is necessary.

Minister
without
portfolio
may act

(3) Where any such duties and powers are assigned to a minister without portfolio, he does not thereby become ineligible as a member of the Assembly or to sit or vote therein. R.S.O. 1950, c. 121, 4.

Execution
of contracts
with Crown

5. No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 121, s. 5.

CHAPTER 128

The Extra-Judicial Services Act

1. Every judge of the Supreme Court shall be paid out of the Consolidated Revenue Fund the annual sum of \$1,000, payable quarterly, as compensation for the services that he is called on to render by any Act of the Legislature in addition to his ordinary duties. R.S.O. 1950, c. 122, s. 1.

2.—(1) In this section, “judge” means a judge within the meaning of the *Judges Act* (Canada).

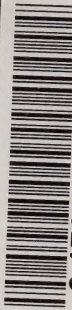
Annual
compensa-
tion
Interpre-
tation
R.S.C. 1952,
c. 159

(2) A judge may act as a conciliator, arbitrator, referee or on a commission of inquiry pursuant to an Act of the Legislature or pursuant to an agreement made under any such Act.

Extra-
judicial
services
authorized

(3) Notwithstanding any statutory provision, regulation, rule, order or agreement, where a judge acts as a conciliator, arbitrator or referee, he shall not receive any remuneration for his services other than such transportation and living allowance as the Lieutenant Governor in Council fixes by general or special order. 1955, c. 20, ss. 1-3.

Remunera-
tion



3 1761 11549133 4